

GAHC010016652023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/474/2023

BHUMITA DEKA
W/O- LATE SUREN DEKA,
WARD NO. 9 (RAJAPAAM),
MANGALDAI TOWN, NEAR GANDHI PARK,
P.O. AND P.S.- MANGALDAI,
DIST.- DARRANG, ASSAM.
PIN- 784125.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
FISHERY DEPARTMENT, DISPUR,
GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DIRECTOR OF FISHERIES
GOVT. OF ASSAM
MEEN BHAWAN
GUWAHATI- 781016.

4:THE DEPUTY COMMISSIONER
DARRANG
MANGALDAI
ASSAM

PIN- 784125.

5:THE DISTRICT FISHERIES DEVELOPMENT OFFICER
DARRANG
MANGALDAI. PIN- 784125

Advocate for the Petitioner : MR. S K ROY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 21/12/2023

Heard Mr. K. Rahman, learned counsel for the writ petitioner. Also heard Mr. C.K.S. Baruah, learned Government Advocate, Assam, appearing for the respondent nos. 1, 3, 4 & 5 and Mr. P. Nayak, learned Standing Counsel, Finance Department, Assam, appearing for the respondent no. 2.

The facts of the case lie in a narrow campus. The writ petitioner herein was initially engaged as a Grade-IV Casual Worker under the establishment of District Fisheries Development Officer, Darrang, Mangaldoi on 08/01/1986. She continued to serve as a Casual Worker on fixed pay and retired from service on attaining the age of superannuation with effect from 30/0/2018, after rendering continuous and uninterrupted service for 31 years and 2 months. At the time of her retirement, the petitioner was drawing fixed pay of Rs. 9000/- per month.

After the order passed by the Division Bench of this Court in the case of ***State of Assam Vs. Upen Das [Writ Appeal No. 45/2014]***, the Finance Department of the Government of Assam, had taken a decision to extend the benefit of minimum of pay scale to the Casual workers and accordingly, had issued instructions calling for list of Casual employees from the Administrative Departments for the purpose of extending the benefit of "Minimum of Pay scale". As such, list of candidates were furnished by the Administrative Departments including the Fishery Department. The name of the petitioner appeared at Sl. No. 49 in the list furnished by the Fishery Department showing her as eligible Casual worker entitled to the benefit of "Minimum of Pay Scale", as fixed by the Government. However, before the list could be implemented, the petitioner retired from service.

Contending that the decision of the Government to implement the order of the Division Bench rendered in the case of ***Upen Das (Supra)*** was taken on 01/08/2018 i.e. before the retirement of

the petitioner and, therefore, she would be entitled to the arrear amount as per the said decision, for the period from 01/08/2017 to 30/04/2018, this writ petition has been filed.

On instruction obtained from the department, Mr. C.K. S. Baruah, learned Government Advocate, Assam, has produced a copy of the written communication dated 22/08/2023 issued by the Joint Secretary to the Government of Assam, Fishery Department, which goes to show that the petitioner is entitled to the benefit of "Minimum of Pay Scale" for the period claimed by her.

Mr. Nayak, learned Standing Counsel, Finance Department, Assam, submits that if the petitioner is entitled to the benefit, the Department would not have any objection to her claim.

Taking note of the submission of learned counsel for the parties, this writ petition is being disposed of with a direction upon the respondents to examine the claim of the petitioner in the light of the observations made herein above and take necessary steps for releasing the arrear amount to the petitioner, as may be found admissible under the order of the Division Bench in the case of ***Upen Das (Supra)*** as well as the standing Government circulars.

The aforesaid exercise be carried out and completed within 90 (ninety) days from the date of receipt of a certified copy of this order.

With the above observations, the writ petition stands disposed of.

A copy of the communication dated 22/08/2023 be retained in the record of this case.

JUDGE

sukhamay

Comparing Assistant