

GAHC010029562022



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

Case No. : WP(C)/1254/2022

NIRMAL CHANDRA DAS AND 2 ORS
S/O LATE NIKHIL CHANDRA DAS, VILL AND P.O.-GANGANAGAR, PART-8,
P.S.-KACHUDHRAM, DIST- CACHAR, ASSAM, PIN-788099

2: MD. JAINAL ABDIN @ JOINAL ABDIN @ JOYNAL ABDIN
S/O LATE SURUJ ALI
VILL-DOBOKA TOWN
WARD NO.-5
P.O. AND P.S.-DOBOKA
DIST-HOJAI
ASSAM
PIN-782440

3: RAMU LAL ROUTH
S/O MODAN LAL ROUTH
R/O SHIB BARI ROAD
WARD NO-16
P.S.-KARIMGANJ
DIST- KARIMGANJ
ASSAM
PIN-78871

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-36

3:THE JOINT DIRECTOR OF HEALTH SERVICES
SILCHAR
DIST- CACHAR
ASSAM
PIN-788003

4:THE DEPUTY SUPERINTENDENT
S.M. DEV CIVIL HOSPITAL
SILCHAR
DIST-CACHAR
ASSAM
PIN-788003

5:THE JOINT DIRECTOR OF HEALTH SERVICES
DIST-HOJAI
ASSAM
PIN-782446

6:THE DEPUTY SUPERINTENDENT
DOBOKA C.H.C.
DIST-HOJAI
ASSAM
PIN-782446

7:THE JOINT DIRECTOR OF HEALTH SERVICES
DIST-KARIMGANJ
ASSAM
PIN-788710

8:THE DEPUTY SUPERINTENDENT
GIRISHGANJ BPHC
DIST-KARIMGANJ
ASSAM
PIN-78870

Advocate for the Petitioner : MR. S BARMAN

Advocate for the Respondent : SC, HEALTH AND F W

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 12/05/2023

Heard Mr. S. Ali, learned counsel for the writ petitioners. Also heard Mr.D. Upamanyu, learned Standing Counsel, Health and Family Welfare Department, Assam, appearing on behalf of all the respondents.

The petitioners herein, were all engaged as casual workers by the concerned Hospital management Committee/Society operating under the official respondents and they claim to have been working for more than 15 (fifteen) years. Aggrieved by non-consideration of their prayer made for payment of minimum pay scale, the writ petitioners have approached this Court by filing the instant writ petition seeking a Writ of Mandamus.

Mr. Ali, learned counsel for the petitioners submits that the case of the writ petitioners is covered by the judgement and order dated 10/11/2022 passed by this Court in WP(C) 7711/2016 and therefore, the present writ petition be disposed of in terms of the aforesaid judgement.

Mr. D. Upamanyu, learned Standing Counsel, Health and FW Department has also fairly submitted that the petitioners' case would be covered under the aforesaid judgement of this Court passed in WP(C) 7711/2016 as well as the subsequent order dated 29/03/2023 passed in WP(C) 5147/2022.

From a perusal of the judgement dated 10/11/2022, I find that the learned Single Judge, while dealing with a similar prayer made by as many as 29 writ petitioners serving under the Lakhimpur Civil Hospital and Dhemaaji Civil Hospital, had disposed of the writ petition by making the following observations in paragraphs 21,22 and 23 of the order :-

“21. As can be seen from the contention of the learned counsels for the parties and the contents of the preceding paragraphs, the only issue left to be decided is as to whether the petitioners are entitled to the payment of minimum scale of pay in terms of the judgment of the Division Bench of his Court in W.A. No. 45/2014. In this respect, it has to be first noted that no prayer to the said effect has been made by the petitioners in the writ petition.

22. Be that as it may, paragraph No. 22 of the Division Bench Judgment & Order dated 08.06.2017 passed in W.A. No. 45/2014 gives a direction to the State Government to pay minimum of the pay scale to Muster Roll Workers, Work-Charged Workers and similarly placed employees working since the last more than 10 years (not in sanctioned post) in light of the decision of the Apex Court in State of Punjab Vs. Jagjit Singh, reported in (2017) 1 SCC 148.

23. As it appears, most of the petitioners have been engaged by the Hospital Management Society and not by the State Government, and only 5 out of the 29 writ petitioners are being

given fixed wages. Accordingly, this Court is of the view that the concerned Hospital Management Committee/State respondents will have to consider the giving of minimum scale of pay to the petitioners, provided they are still working in the two Hospitals and are entitled to the same. Consequently, the petitioners are given the liberty to submit individual representations to the Superintendent of the two Hospitals, with regard to their claim for payment of the minimum scale of pay. The concerned Superintendent, being the Member Secretary of the concerned Hospital Management Committee, shall thereafter place the same before the appointing authority, who shall thereafter consider the case of the petitioners, with regard to payment of the minimum scale of pay and make due payment, if they are entitled to the same. The petitioners should submit their individual representations within three weeks from today. Thereafter, the decision/s on the petitioners' representations should be made within a further period of 3 (three) months from the date of receipt of a certified copy of this order and the petitioners' representations."

Since there is no dispute at the Bar that the petitioners' case would also come under the purview of the aforesaid judgement and order, this writ petition also stand disposed of in the light of the judgement and order dated 10/11/2022, as noted above. The cases of the petitioners be considered accordingly, within the time frame as provided in the order dated 10/11/2022.

JUDGE

sukhamay

Comparing Assistant