

GAHC010036482022



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

Case No. : WP(C)/1499/2022

SAMINDRA NATH KALITA AND 2 ORS
S/O LT. LALIT CH. KALITA, R/O KALMONI, P.O.-MADHUKUCHI, DIST-
KAMRUP, ASSAM

2: ANIL KALITA
S/O LT. DHATURAM KALITA
R/O NAKUCHI
P.O.-MORANJANA
DIST-KAMRUP
ASSAM

3: PRABHAT KALITA
S/O LT. SABAH RAM KALITA
R/O MAIDAMGAON
TRIPURA ROAD NO. 3 UDAYAN PATH
P.O.-BELTOLA
DIST-KAMRUP(M)
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
PERSONAL (B) DEPTT.
DISPUR
GUWAHATI-6

3:THE COMMISSIONER AND SECRETARY TO GOVERNMENT OF ASSAM
FINANCE SIU DEPARTMENT
DISPUR

GUWAHATI-6

4:THE COMMISSIONER AND SECRETARY TO GOVERNMENT OF ASSAM
DEPARTMENT OF P.W.D.
DISPUR
GUWAHATI-

Advocate for the Petitioner : MS. A TALUKDAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06.12.2023

1. Heard Ms. A. Talukdar, learned counsel for the petitioners. Also heard Mr. R. Dhar, learned Additional Senior Government Advocate, Assam.
2. The present writ petition is filed assailing the order dated 04.01.2022 passed by the Joint Secretary to the Government of Assam, Home & Political Department. The aforesaid order has been passed purportedly in pursuance of the Judgment and Order of this Court passed in WP(C) No. 5456/2023 and by the aforesaid order, the Joint Secretary to the Government of Assam, Home & Political Department requested the Additional Director General of Police (SB), Assam to submit a formal proposal for rehabilitation of the petitioners through specific schemes/project under Swabalamban Scheme along with financial implication and availability of budget under appropriate Head of Account in the Financial Year 2021-22.
3. The background fact of the case is that the petitioners are surrendered

militants who have joined back the main stream on 04.04.2000, 01.03.2000 and 04.04.2000 respectively. Upon jointing the main stream, they sought for rehabilitation by submitting application for employment under the Public Works Department of the State Government.

4. When appointments were not issued, the petitioners approached this Court by way of filing WP(C)/5465/2013. The aforesaid writ petition was disposed of by this Court under its order dated 27.07.2018. The operative portion of the aforesaid order is quoted herein below for ready reference:-

“6..... Accordingly, the writ petition is disposed of with a direction to the respondents, more particularly to the respondent No. 7 to consider the case of the petitioners and grant them suitable relief and rehabilitation, keeping in mind the fact that they have joined the main stream with a hope to be re-settled and that similarly situated persons were given the benefit of employment. The petitioners by now are in the advanced age since their surrendered in the year 2000 and therefore, such consideration should be done as expeditiously as possible and if necessary by giving them the benefit of condonation of age as may be found necessary”.

5. Subsequently, the impugned order dated 04.01.2022 was issued by the Joint Secretary to the Government of Assam, Home & Political Department.
6. It is grievance of the petitioners that the petitioners are entitled for appointment not any other rehabilitation under the scheme, however, the learned counsel for the petitioners has not been able to show any scheme or policy decision of the Government that surrendered militant shall be appointed to Government post.
7. At the same time, by a communication dated 22.07.2023, the Additional

Director General of Police SB & Surrendered-cum-Rehabilitation Officer, Assam, Kahilipara, Guwahati-19 addressed to the Secretary to the Government of Assam, Home & Political Department, Dispur proposed the following measures for rehabilitation of the present petitioners under a scheme called for "Swabalamban" meant for surrendered militants. The aforesaid proposal is quoted herein below:-

"1. The petitioners may be rehabilitated under the existing "Swabalamban" scheme of the Govt. of Assam in which Rs. 1.5 lakhs (Rupees one lakh fifty thousand) is given as one time grant to former militants.

2. The Govt. of Assam, may also consider to rehabilitate the three petitioners by considering them in the existing flagship schemes of the Govt. of Assam under the department of Fisheries, department of Veterinary and Animal Husbandry, department of Industries, department of Agriculture, etc., or any other trade that they may opt for which falls under any Government sponsored scheme.

3. Necessary linkages with banks for availing loans by the petitioners for economic activity under any of the schemes offered by concerned Govt. departments can be acquired through the concerned departments as per existing norms".

8. In the aforesaid backdrop, this Court is of the view that the petitioner have been failed to show any right under any scheme or any promise that has been made to them to appoint any Government post.
9. That being the position, this Court finds no infirmity in the order dated 04.01.2022 passed by the Joint Secretary to the Government of Assam, Home & Political Department.
10. Accordingly, the present writ petition stands dismissed. However, as already a proposal has been muted for rehabilitation of the present

petitioners under the Rehabilitation Scheme as discussed hereinabove, the same be implemented as permissible under the said policy and in terms of the proposal dated 22.07.2023 issued by the Additional Director General of Police SB & Surrendered-cum-Rehabilitation Officer, Assam, Kahilipara, Guwahati-19. The exercise for consideration be completed within a period of six months from the date of receipt of a certified copy of this order by the Secretary/Principal Secretary to the Government of Assam, Home & Political Department, Dispur, to be furnished by the petitioner

11. With the aforesaid observations, this present petition stands closed. However, parties to bear their own cost.

JUDGE

Comparing Assistant