

GAHC010121432023



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

Case No. : WP(C)/3486/2023

SHAHAJ UDDIN LASKAR AND 13 ORS
S/O- LATE ABDUL MAZID LASKAR,
VILL- HARINAGAR PT. III,
P.O.- RAJARTILLA,
P.S.- KATIGORAH,
DISTRICT- CACHAR, ASSAM,
PIN- 788805.

2: CHANDANA DAS
W/O SUBIR DAS

D/O- LATE KSHITISH CHANDRA PAUL

VILL- KATIGORAH PART-III

P.O.- KATIGORAH

DISTRICT- CACHAR
ASSAM

PIN- 788850.

3: NOOR MOHAMMED BARBHUIYA @ NUR MOHAMMED BARBHUIYA
S/O- SAMSIR UDDIN BARBHUIYA

VILL- ISLAMABAD

P.O.- BAGA BAZAR

P.S.- DHOLAI

DISTRICT- CACHAR
ASSAM

PIN- 788120.

4: LANGONMAI KABOI
W/O- LATE BOISINGH KABOI

D/O- LT. PALIANG KABOI

VILL.- KAGUILUANG NAGA COLONY

P.O.- SILCHAR

DISTRICT- CACHAR
ASSAM

PIN- 788001.

5: SALIM UDDIN CHOUDHURY
S/O- LATE AKLIMUR RAJA CHOUDHURY

VILL- SONABARIGHAT PT-I

P.O.- SONABARIGHAT

DISTRICT- CACHAR
ASSAM

PIN- 788013.

6: BAHARUL ISLAM MAZUMDER
S/O- LATE BASIR UDDIN MAZUMDER

VILL- SONABARIGHAT PT.-I

P.O.- SONABARIGHAT

DISTRICT- CACHAR
ASSAM

PIN- 788013.

7: FARIZ UDDIN BARBHUIYA @ FARIZ UDDIN LASKAR
S/O- LATE SURMAN ALI BARBHUIYA

VILL- DHANEHARI PART-III

P.O. SILDUBI

P.S.- SONAI

DISTRICT- CACHAR
ASSAM

PIN- 788013.

8: JAYA SHIL
D/O- LATE AMULYA SHIL

R/O- LANE NO. 09. 2ND LINK ROAD

SILCHAR
P.O.- LINK ROAD

P.S.- RANGIRKHARI
SILCHAR

DISTRICT- CACHAR
ASSAM

PIN- 788006.

9: MONJUL HOQUE LASKAR @ MANJUL HOQUE LASKAR
S/O- LATE NIMAR ALI LASKAR

VILL- KRISHNAPUR

P.S.- SILCHAR

DISTRICT- CACHAR
ASSAM

PIN- 788025.

10: BAPON NATH @ BAPAN NATH
S/O- LATE SUBODH NATH

VILL-DUDHPATIL PART-V
SILCHAR

P.O.- DUDHPATIL PART-V

P.S.- MALUGRAM

DISTRICT- CACHAR
ASSAM

PIN- 788003.

11: SARIMUL HAQUE LASKAR
S/O- LATE AZIR UDDIN LASKAR

VILL- UTTAR KRISHNAPUR PART-III

P.O.- UTTAR KRISHNAPUR

P.S.- SILCHAR

DISTRICT- CACHAR
ASSAM

PIN- 788006.

12: PRADHANTA BAGTI
S/O- LATE PARESH BAGTI

VILL- KAPTANPUR-V (CHHOTAMAMDA)

P.O.- CHHOTAMAMDA

P.S.- LAKHIPUR

DISTRICT- CACHAR
ASSAM

PIN- 788126.

13: GITA RANI ROY
W/O- LATE TAPAN KUMAR ROY

D/O- HEMENDRA KUMAR ROY

VILL- JIRIGHAT GRANT NATUN COLONY

P.O.- JIRIGHAT
P.S.- JIRIGHAT

DISTRICT- CACHAR
ASSAM

PIN- 788104.

14: GAUTAM KAHAR
S/O- MOHAN KAHAR

R/O- DIGOR FULERTAL PART-II

P.O.- FULERTAL

P.S.- LAKHIPUR

DISTRICT- CACHAR
ASSAM

PIN- 788106

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE 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
CACHAR
DIST.- CACHAR
ASSAM

PIN- 788013.

4:THE DEPUTY SUPERINTENDENT
MG KATIGORAH MODEL HOSPITAL
KATIGORAH
DIST.- CACHAR
ASSAM

PIN- 788805.

5:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
DHOLAI BLOCK PHC
DHOLAI
CACHAR

DIST- CACHAR
ASSAM
788114.

6:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER

SONAI PHC
CACHAR
DIST.- CACHAR
ASSAM

PIN- 788119.

7:THE DEPUTY SUPERINTENDENT
S.M. DEV CIVIL HOSPITAL
SILCHAR
DIST.- CACHAR
ASSAM

PIN- 788001.

8:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
LAKHIPUR BPHC
LAKHIPUR
DIST.- CACHAR

ASSAM
PIN- 788103

Advocate for the Petitioner : MR. M DASGUPTA

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

27.09.2023

Heard Mr. S. Ali, learned counsel for the petitioners and Mr. D. Upamanyu, learned Standing Counsel, Health Department.

This writ petition is filed by the petitioners, who were engaged as casual workers under the various Hospital Management Committee/society under the respondent health department. It is submitted that the petitioners have been working for more than 12 years and they have also the requisite educational qualifications, skill sets and experience. It is further submitted that inspite of

their entitlement, they have not been given the minimum pay scales as has been done in respect of other similar workers. Being aggrieved, the present writ petition has been filed seeking appropriate orders from this court. It is submitted by the learned counsel for the petitioner that similar writ petition being WP(C) No. 7711/2016 was disposed of by the co-ordinate bench of this court, which went on appeal being W.A. No. 206/2018 and the Division Bench by Judgment and order dated 25.08.2022 remanded the matter back to the co-ordinate bench for re-hearing and deciding the matter on merit. Pursuant to the order of the Division Bench, the Co-ordinate bench heard the matter again and disposed of the writ petition with the following directions.

“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."

The learned counsel for the parties submits that the issues involved in the present writ petition are squarely covered by the judgment and order dated 10.11.2022 passed in WP(C) No. 7711/2016.

Accordingly, in terms of the judgment and order dated 10.11.2022 passed in WP(C) No. 7711/2016, the present writ petition is also disposed of directing the respondents to determine the entitlement of the minimum scale of pay required to be paid to the petitioners and thereafter take appropriate steps to release the same, if found to be payable to the petitioners.

The petitioners are at liberty to approach the concerned authority by filing necessary representations along with a certified copy of this order.

The writ petition is disposed of in terms of the above.

No order as to costs

JUDGE

Comparing Assistant