

GAHC010129522021



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

Case No. : WP(C)/4955/2021

MAHITIR MAHAMMAD BARBHUIYA
S/O- LT. ABUL BAIS BARBHUIYA, GRADE IV EMPLOYEE, OFFICE OF THE
BORKHOLA P.H.C., DIST.- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HEALTH
DEPTT., DISPUR, GHY-6

2:PRINCIPAL SECRETARY
FINANCE DEPTT.
GOVT. OF ASSAM
DISPUR
GHY-6

3:NATIONAL HEALTH MISSION
REP. BY MISSION DIRECTOR
OFFICE OF THE MISSION DIRECTOR
SAIKIA COMMERCIAL COMPLEX
SRINAGAR PATH
CHRISTIANBASTI
GHY-5

4:TREASURY OFFICER
CACHAR
P.O. AND P.S. SILCHAR
DIST.- CACHAR- PIN 788110

5:SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
BORKHOLA
P.O. BORKHOLA

CACHAR
PIN- 78811

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 02/08/2023

Heard Mr. S. K. Das, learned counsel for the petitioner. Also heard Ms. D. Borah, learned standing counsel, Health department and Mr. P. Nayak, learned standing counsel, Finance department.

2. This writ petition has been filed by the petitioner, namely, Mahitir Mahammad Barbhuiya praying for grant of minimum wages. Petitioner is working as a Grade-IV employee on honorary basis in Borkhola PHC under the Health Department in Cachar District. It is submitted that by the learned counsel for the petitioner that petitioner was appointed by the Hospital Management Society and is presently rendering his services under the Borkhola PHC, Cachar District. He is being presently paid a fixed pay of Rs.3000/- per month. He is assigned duties to assist the field works in M.P.W. and S.W for Vector borne diseases along with COvid-19 diseases. Since his date of appointment on 02.01.2017 petitioner had been rendering his services.

3. The learned counsel for the petitioner submits that besides his prayer for seeking regularization in the post in which he is working, petitioner is entitled to atleast a minimum wages till his case is considered by the department for regularization.

4. Learned counsel for the petitioner has referred to the Judgment of this Court passed in WA No. 45/2014 (***State of Assam Vs Upen Das and Ors***) to submit that the petitioner is required to be granted the benefits as directed by the Court in ***Upen Das (Supra)***.

5. It is further submitted that his grievances were ventilated before the Deputy, Commissioner, Cachar, Silchar and Joint Director of Health Services, Cachar, Silchar by his separate representations. The said representations had remained pending.

6. Ms. D. Borah, learned standing counsel, Health Department submits that the petitioner is not entitled to regularization however, his case for minimum wages, if any can be considered by the department subject to the petitioner satisfying the eligibility.

7. Having heard the learned counsels for the parties, it is seen that inspite of opportunities being granted the respondent department has not filed any counter affidavit. It is also seen that the representations filed by the petitioner have also remained pending.

8. Taking note of the submissions made as well as the pleadings on record, this Court is of the view that the writ petition can be disposed of with a direction to the Joint Director, Health Service, Cachar, Silchar to consider the representations filed by the petitioner and thereupon dispose of the said representations by a speaking order. Any such order that may be passed by the Joint Director, copy thereof shall be served on the petitioner.

9. The Joint Director, Health Services, Cachar, Silchar will dispose of the representation within a period of 60 (sixty) days from the date of receipt of the certified copy of this order. The petitioner may file copy of the writ petition

along with a copy of the certified copy of this order before the Joint Director, Health Services, Cachar, Silchar within 1 (one) week from today.

10. Writ petition disposed of in terms of the above.

JUDGE

Comparing Assistant