

GAHC010131472022



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

Case No. : WP(C)/4464/2022

SUBHASH CH. DAS AND 22 ORS.
S/O- KUMUD CH. DAS, HOUSE NO.- 199, VILL- BARBARI (BHADRAKUCHI),
P.O. -TIHU, P.S.- TIHU, DIST.- NALBARI, PIN- 781371, ASSAM

2: LINTU GOHAIN
S/O- KUMUD GOHAIN
R/O VILL-NADWA GRANT GAON
PO-DIKOM
DIST-DIBRUGARH
PIN - 786101
ASSAM

3: JISHUKESH CHAKRABORTY
S/O- JYOTIRMOY CHAKRABORTY
R/O- FLAT NO. 403B
SARADA ENCLAVE
BRINDABAN PATH
SURVEY
P.O. BELTOLA
P.S. HATIGAON
GUWAHATI
DISTRICT KAMRUP(METRO)
ASSAM
PIN 781028

4: RAJKAMAL NATH
S/O- PARESH CH. NATH
R/O CHANGSARI
P.O. CHANGSARI
P.S CHANGSARI
DIST- KAMRUP (R)
PIN -781101
ASSAM

5: NIPAN KALITA
S/O- KASHI RAM KALITA
R/O VILL- UZAN BARBARI
PO- KARDAIGURI
PS- PATACHARKUCHI
DIST- BARPETA (ASSAM)
PIN- 781318

6: KUNTAL BHARADWAJ
S/O-LATE NISHI KANTA SARMA
R/O SAGAR HOUSING COMPLEX
BLOCK-I
FLAT-102C
KAMAKHYA NAGAR
ADABARI TINIALI
GUWAHATI
DIST. KAMRUP METRO
ASSAM
PIN-781012

7: SMTI JUTI RAY
D/O- ROHINI KUMAR RAY
HOUSE NO. 21
NEAR ROSELAND SCHOOL
HASTINAPUR
GANESHGURI
NAYANPUR ROAD
DIST-KAMRUP(M)
GUWAHATI- 781005
ASSAM

8: BIMAN JYOTI UZIR
S/O- DWIPENDRA NATH UZIR
R/O HOUSE NO 26
DAMODAR NAGAR
LOKHRA
DIST-KAMRUP(M)
GUWAHATI-781040
ASSAM

9: SIBANTA DUWARAH
S/O SRI NIRMAL DUWARAH
VILL- SUKLESWAR NAGAR
(GOTONGA KAHDAL)
P.O- B. P. TINIALI
P. S- BABEZIA
DIST- SONITPUR
PIN-784154

ASSAM

10: ANSAARUL ISLAM
S/O LATE NURUL ISLAM
R/O VILL. AMGURI
P.O. METEKA
DIST. SIVASAGAR
ASSAM
PIN-785640

11: JATIN GOGOI
S/O- LATE GULESH CHANDRA GOGOI
R/O VILL-LEKAI GAON
THAKURTHAN
PO-SESSA
DIST-DIBRUGARH
ASSAM-786003

12: RAVI KUMAR RABHA
S/O- N. C. RABHA
R/O VILL- BANIAPARA
SARAIBAHA
P.O. PACHIA
DIST.- KAMRUP (R)
ASSAM
PIN- 781135.

13: RAHUL SINGH
S/O- ARJUN SINGH
R/O LKRB PATH
NABIN NAGAR
AIDC
DIST- KAMRUP (METRO)
ASSAM PIN-781024

14: ARIFUL HAQUE
S/O- DR. ABDUL HAQUE AHMED
R/O VILL
PO AND PS- DHUPDHARA
DIST. GOALPARA
PIN- 783123
ASSAM

15: SANDEEP KUMAR SARMA
S/O- SRI BIRENDRA NATH SARMA
R/O- HOUSE NO. 24
CHANDAN NAGAR
BYE LANE NO. 2

SURVEY
P.O.- BELTOLA
P.S.- DISPUR
DIST.- KAMRUP(METRO)
WARD- 47
GUWAHATI
ASSAM
PIN- 781028

16: MANOJ KUMAR NATH
S/O SRI NRIPEN NATH
R/O HOUSE NO. 31
OPPOSITE BABYLAND SCHOOL
ABC
TARUN NAGAR
BYE LANE NO. 5
DIST-KAMRUP (M)
GUWAHATI-781005
ASSAM

17: RATAN DEEP RAMCHIARY
S/O- BIPIN RAMCHIARY
VILL- ULUBARI
P.O- KAREMURA
P.S- MUSHALPUR
DIST- BAKSA
PIN-781355
ASSAM

18: PRANJAL SHARMA
S/O SRI DEBENDRA MOHAN SHARMA
R/O VILL-AZARA GOSAIPARA
P.O. AND P.S.-AZARA
DIST-KAMRUP(M)
GUWAHATI-781017
ASSAM

19: JAYANTA LOHAR
S/O- JADAV LOHAR
R/O HOUSE NO. -62
BHASKARGIRI PATH
KHARGHULI
GUWAHATI
DIST-KAMRUP(M)
PIN-781004
ASSAM

20: HITESH CHANDRA DAS

S/O- TIKEN CH. DAS
R/O KHETRI
ULUBAM
PO AND PS- KHETRI
DIST-KAMRUP (METRO)
ASSAM-782403

21: PROBhat DEURI
S/O- BHOGESWAR DEURI
C/O- SATYA DAS RIVERVIEW RESTAURANT CAMPUS
KHARGHULI
GUWAHATI
DIST-KAMRUP(M)
PIN-781004
ASSAM

22: KUSHAL DAIMARY
S/O- KAMALAKANTA DAIMARY
R/O JABE PATGAON
P.O. BONGORA
P.S AZARA
DISTRICT KAMRUP (METRO)
GUWAHATI-781015. ASSAM

23: KAUSHIK CHANDRA MEDHI
S/O PURNA CHANDRA MEDHI
R/O H.NO.4
MAHANAGAR PATH
BARSAJAI
NEAR KIDZEE BHETAPARA
P.O.AND P.S.BASISTHA
DIST-KAMRUP(M)
GUWAHATI
ASSAM
PIN-78102

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE L.R. CUM COMMISSIONER AND SECRETARY TO
THE GOVT. OF ASSAM, JUDICIAL DEPARTMENT, DISPUR, GUWAHATI-
781006

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

3:THE GAUHATI HIGH COURT
REPRESENTED BY REGISTRAR GENERAL
GAUHATI HIGH COURT
GUWAHATI
PIN-781001
ASSAM

4:THE JOINT REGISTRAR (FINANCE)
GAUHATI HIGH COURT
GUWAHATI
PIN-781001
ASSA

Advocate for the Petitioner : MS D BORGOHAIN

Advocate for the Respondent : GA, ASSAM

Linked Case : I.A.(Civil)/313/2023

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GUWAHATI-781040
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S/O SRI DEBENDRA MOHAN SHARMA

R/O VILL-AZARA GOSAIPARA
P.O. AND P.S.-AZARA
DIST-KAMRUP(M)
GUWAHATI-781017
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KHARGHULI
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DIST-KAMRUP(M)
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P.O. BONGORA
P.S AZARA
DISTRICT KAMRUP (METRO)
GUWAHATI-781015. ASSAM

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S/O PURNA CHANDRA MEDHI
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MAHANAGAR PATH
BARSAJAI
NEAR KIDZEE BHETAPARA
P.O.AND P.S.BASISTHA

DIST-KAMRUP(M)
GUWAHATI
ASSAM
PIN-781029
VERSUS

THE STATE OF ASSAM AND 2 ORS.
THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE (PRU) DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

2:THE GAUHATI HIGH COURT
REPRESENTED BY REGISTRAR GENERAL
GAUHATI HIGH COURT
GUWAHATI
PIN-781001
ASSAM

3:THE JOINT REGISTRAR (FINANCE)
GAUHATI HIGH COURT
GUWAHATI
PIN-781001
ASSAM

Advocate for : MS D BORGOHAIN
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 28-09-2023

28-09-2023

Heard Ms. D. Borgohain, learned counsel for the writ petitioners. I have also heard Ms. M. Barman, learned Govt. Advocate, Assam appearing for the respondent No. 1, Mr. P. Nayak, learned standing counsel, Finance Department, Assam appearing for the respondent No. 2 and Mr. N.K. Sarma, learned counsel representing respondent Nos. 3

and 4.

2. The core controversy involved in this writ petition pertains to the alleged computational error in giving effect to the revised pay scale applicable to the writ petitioners as the employees of the Gauhati High Court (Principal Seat) as per the Revision of Pay (RoP) Rules, 2017. According to the writ petitioners, while fixing their revised pay scale, a computational error has occurred which calls for rectification.

3. The facts of the case lie in a narrow campus and can be noticed as follows:- The writ petitioners are all working as Computer Assistants in the Principal Seat of the Gauhati High Court. As per the relevant service rules, the petitioners are employees of the Principal Seat of the Gauhati High Court. By the notification dated 16-08-2016, the Govt. of Assam had earlier approved the proposal for payment of Principal Seat Pay (PSP) to the officers and staff of the Gauhati High Court (Principal Seat) with effect from the date so notified. The notification dated 16-08-2016 was issued with the approval of the Cabinet. The aforesaid notification had clearly mentioned that the PSP shall be admissible to all the officers and staff of the Principal Seat of the Gauhati High Court in addition to their pay band and grade pay, meaning thereby that the basic pay of the employees under the RoP Rules had to be treated as "pay in the pay band + grade pay + PSP". Accordingly, the officers and other staff of the Principal Seat of the Gauhati High Court have already been extended the benefit of revised pay scale. However, in the case of Computer Assistants, the department had calculated the revised pay scale only on the basis of the pay in the pay band + grade pay, by excluding the PSP as a result of which, they are drawing a lesser amount as salary. The apparent reason for doing so is on account of the fact that

the writ petitioners herein, although were appointed prior to the notification of the RoP Rules, 2017 but their appointments are after the notification dated 16-08-2016 had been issued by the Govt. of Assam approving the payment of PSP. It would be pertinent to mention herein that in the writ petition, the petitioners have *inter-alia* prayed for issuance of a direction to fix the salary of the petitioners under the Revised Pay Rules (RoP) w.e.f. 01-07-2017.

4. It appears that taking note of the grievance expressed by the petitioners pertaining to erroneous fixation of pay scale, the Joint Registrar (Finance) of the Gauhati High Court had earlier addressed a communication dated 23-12-2022 to the Judicial Department of the Govt. of Assam, pointing out that the pre-revised fixation of pay of the Computer Assistants ought to be Rs. 8750/- and after 3% increment, it would become Rs. 9,020/- w.e.f. 01-07-2017. As such, the revised pay of the Computer Assistant w.e.f. 01-07-2017 under the RoP, 2017 would be Rs. 24,160/- (next higher stage of table No. 1.7). It was further, mentioned that pay in respect of all other officers and staff of the Registry had been fixed after adding PSP with basic *i.e.* basic = pay + grade pay + PSP, as admissible under the Govt. notification dated 16-08-2016. Accordingly, a request was made to the Judicial Department of the Govt. of Assam to rectify the above computational error and re-fix the pay scale of the writ petitioners. However, notwithstanding the aforesaid communication, no action had been taken by the Judicial Department primarily on the ground that approval of the Finance Department was required in this regard.

5. It further appears that some other issues raised in the writ petition have already been resolved during the pendency of the writ petition but the contentious issue that still

remains to be resolved, at this point of time, is on the question of re-fixation of the basic pay of the petitioners after taking into account the pay in the pay band + grade pay + PSP.

6. Taking note of the facts and circumstances of this case, on 18-09-2023, this Court had passed an order directing the learned standing counsel, Finance Department, Assam to obtain necessary instruction as to the claim made in the writ petition. Today when the matter is called up Mr. P. Nayak, learned standing counsel, Finance Department, Assam has disarmingly submitted that Finance Department would have no objection if the necessary computational error is rectified by the Judicial Department and in this regard, if any further clarification is required, the Finance Department is ready and willing to provide the same.

7. In view of the stand taken by the learned standing counsel, Finance Department, Assam, this Court is of the opinion that the issue raised in this writ petition can be treated to have been resolved. Ms. Borgohain, learned counsel for the writ petitioners/ applicants has also fairly admitted to the said position. Ms. M. Barman, learned Govt. Advocate, Assam and Mr. N.K. Sarma, learned standing counsel, GHC have also submitted that since it is only a question of rectification of a computational error, they would have no objection if the writ petition is disposed of with a direction upon the Judicial Department, Govt. of Assam to carry out the necessary rectification in the computational error and issue appropriate notification.

8. Taking note of the submissions made at the bar, this writ petition as well as the I.A. is hereby disposed of by directing the respondent No. 1 to take note of the projection

made in the letter No. HC.VIII 154/2017/3067/AC dated 23-12-2022 issued by the Joint Registrar (Finance), Gauhati High Court and after carrying out the necessary correction in the computation and fixation of revised pay scale in case of the writ petitioners, a proper notification be issued. In doing so, if any clarification is required, the same may be sought from the Finance Department, Govt. of Assam.

9. Needless to say, the exercise, as directed by this Court shall be carried out and completed as expeditiously as possible but not later than 60 days from the date of receipt of a certified copy of this order. The benefit of arrear salary and allowances, which may be admissible under the Rules upon re-fixation of the pay scale, may also be released in favour of the writ petitioners within a further period of 60 days from the date of issuance of the notification.

With the above observation, this writ petition as well as the I.A. stand disposed of.

JUDGE

GS

Comparing Assistant