

GAHC010178992022



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

Case No. : WP(C)/7267/2023

JYOTI MONI SAIKIA AND 22 ORS
W/O- AMULYA SAIKIA,
VILL- TEOK GUWAL GAON,
P.O.-TEOK,
DISTRICT- JORHAT, ASSAM.
PIN- 785112.

2: SUSILA ROBI DAS
W/O- DIPOK ROBI DAS

VILL- TEOK CHOWDANG GAON

P.O.- TEOK
DISTRICT- JORHAT

ASSAM
PIN- 785112.

3: ANIL CHANDRA DAS
S/O- GHANA KANTA DAS

VILL- TEOK UTTAR DULIA GAON

P.O.- UTTAR DULIA

DISTRICT- JORHAT
ASSAM

PIN- 785112.

4: DIPIKA HAZARIKA
D/O- UPEN HAZARIKA

VILL- TEOK KHANGIA GAON

P.O.- JAKHORIA

DIST.- JORHAT
ASSAM

PIN- 785112.

5: MONIKA CHETIA
D/O- LOKHESWAR CHETIA

VILL- TEOK CHOWDANG GAON

P.O.- TEOK

DISTRICT- JORHAT
ASSAM

PIN- 785112.

6: MAMU GOGOI
W/O- UPAKUL GOGOI

VILL- MAIBELIA GAON

P.O.- GOHAIN BARI

DISTRICT- JORHAT
ASSAM

PIN- 785685.

7: MADHUDAL GOGOI
S/O- BHUBAN GOGOI

VILL- HANCHRA CHETIA GAON

P.O.- BHUYANHAT

DISTRICT- JORHAT
ASSAM

PIN- 785680.

8: NUMOL ROBI DAS
S/O- LATE KORMA ROBIDAS

VILL- TEOK CHOWDANG GAON

P.O.- TEOK

DISTRICT- JORHAT
ASSAM

PIN- 785112.

9: PORAG BORAH
S/O- MILLON BORAH

VILL- BONAI MAJ GAON

P.O.- BONAI

DISTRICT- JORHAT
ASSAM
PIN- 785112.

10: DIPALI DAS
W/O- RANJIT DAS
VILL- TEOK TELIA GAON

P.O.- TEOK

DISTRICT- JORHAT
ASSAM

PIN- 785112.

11: RAJIB BHUYAN
S/O- LATE MOHENDRA BHUYAN

VILL- CHANDIPUR TE

P.O.- BONAI GAON

P.S.- BONAI

DISTRICT- JORHAT
ASSAM

PIN- 785112.

12: JITUMONI HAZARIKA
S/O- JADOV HAZARIKA

VILL- UTTAR DULIA GAON

P.O.- UTTAR DULIA

DISTRICT- JORHAT
ASSAM

PIN- 785112.

13: DIGANTA GOGOI
S/O- LATE KHIRESWAR GOGOI
VILL- AUG CHAMUA GAON

P.O.- CHUNGILAHANG

P.S.- MARIANI

DISTRICT- JORHAT
ASSAM.

14: BANDANA BHUYAN
D/O- LATE BAPAI BHUYAN

VILL- DHEKORGAON KOMARGAON

P.O.- DHEKORGAON

DIST.- JORHAT
ASSAM.

15: PROBIN BORUAH
S/O- LATE CHAKRADHAR BORUAH

VILL- SONARIGAON

P.O.- DAGAON

DISTRICT- JORHAT
ASSAM.

16: BIREN BORA
S/O- DEUKON BORA

VILL- MELAMATI POTIA GAON

P.O.- MELAMATI

P.S.- TITABAR

DISTRICT- JORHAT

ASSAM.

17: BUDDHA DAS
S/O- SRI POWALI DAS

VILL- CHARINGIA GAON

P.O.- BHOGAMUKH

DISTRICT- JORHAT
ASSAM.

18: APURBA SAIKIA
S/O- GHANAKANTA SAIKIA

VILL- GELAKONI GAON

P.O.- PATHALIAL

DISTRICT- JORHAT
ASSAM.

19: DILIP DORJEE
S/O- CHANDRA DORJEE

VILL.- GELAKON GAON

P.O.- POTHALIAL

DISTRICT- JORHAT
ASSAM.

20: NIREN BORAH
S/O- RUPESWAR BORAH

VILL- AMTOL GORSIGA GAON

P.O.- AMTOL

DISTRICT- JORHAT
ASSAM

PIN- 785112.

21: KABITA SAKIA DUTTA
W/O- BABU DUTTA

D/O- SONARAM SAIKIA

VILL.- BHAKATGAON
JHANJIMUKH

P.O.- JHANJIMUKH

DISTRICT- JORHAT
ASSAM.

22: SUJIT HAZARIKA
S/O- LATE PODMESWAR HAZARIKA

VILL- PHUKONBARI
JHANJIMUKH

DIST.- JORHAT
ASSAM.

23: BINU BORAH
W/O- LATE BHOGI BORAH

VILL- TEOK CHOWDANG GAON

P.O.- TEOK

DISTRICT- JORHAT
ASSAM

PIN- 785112

VERSUS

THE STATE OF ASSAM AND 9 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
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785001.

4:THE DEPUTY SUPERINTENDENT
FRU TEOK
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785112.

5:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
NAKACHARI BPHC
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785635.

6:THE SR. MEDICAL AND HEALTH OFFICER
DHEKORAGORAH MPHC
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785015.

7:THE DEPUTY SUPERINTENDENT
BHOGAMUKH MODEL HOSPITAL
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785682.

8:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
TITABAR BLOCK PHC
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785630.

9:THE MEDICAL AND HEALTH OFFICER
OUGURI MPHC
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785112.

10:THE MEDICAL AND HEALTH OFFICER
JHANJIMUKH STATE DISPENSARY
JORHAT
DIST.- JORHAT
ASSAM

PIN- 785112

Advocate for the Petitioner : MR. M DASGUPTA

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.12.2023

Heard Mr. M. Dasgupta, learned counsel for the petitioner. Also heard Ms. S. Sarma, 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 10 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 this 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."

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 allowed 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 petitioner.

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