

GAHC010128832013



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

Case No. : WP(C)/807/2013

NIBARAN MALAKAR and 55 ORS
S/O LT. NORESH MALAKAR VILL- GANDARAJBARI P.O. RATABARI, DIST.
KARIMGANJ

2: ALA UDDIN
S/O- LT. MASAB ALI
VILL.- 37 HALL
P.O. ANIPUR
DIST.- KARIMGANJ.

3: ASADUR RAHMAN
S/O- LT. SURUJ ALI
VILL.- 37 HALL
DIST.- KARIMGANJ
RATABARI.

4: JOSHODA RANJAN GOPE
S/O- LT. JATINDRA MOHAN GOPE
VILL.- SUGARMILL COLONEY
P.O.- RATABARI
DIST.- KARIMGANJ.

5: ABDUL LATIF
S/O- LT. JADAB ALI
VILL.- HULASHNAGAR
P.O.- ANIPUR
DIST.- KARIMGANJ.

6: AJAIB ALI
S/O- LT. FORMAN ALI
VILL.- SORKARIBARI
P.O.- RATABARI
DIST.- KARIMGANJ.

7: ABDUR ROIS
S/O- LT. KATAN ALI
VILL.- HULASHNAGAR
P.O.- ANIPUR
DIST.- KARIMGANJ.

8: GAUR CH. SARMAH
S/O- LT. RAJBABU SARMAH
VILL.- LENGEPAR
P.O.- MULIALA
DIST.- KARIMGANJ.

9: NURUL ISLAM LASKAR
S/O- LT. MURAKIB ALI LASKAR
VILL.- SUGARMILL COLONEY
P.O.- RATABARI
DIST.- KARIMGANJ.

10: JAINUL HOQUE
S/O- LT. FARMAN ALI
VILL.- SARKARIBARI
P.O.- RATABARI
DIST.- KARIMGANJ.

11: MAHABAT ALI
S/O- LT. GABAD ALI
VILL.- HULASHNAGAR
P.O.- ANIPUR
DIST.- KARIMGANJ.

12: PRANESH CHAKRABARTY
S/O- LT. PRONoy CHAKRABARTY
VILL.- DURGANAGAR
P.O.- RATABARI
DIST.- KARIMGANJ.

13: RAFIJUL ALI
S/O- LT. IRPAN ALI
VILL.- BEHAIRDALA
P.O.- LILACHILA
DIST.- KARIMGANJ.

14: AJAIB ALI
S/O- LT. WAJID ALI
VILL.- 62 HALL
P.O.- ANIPUR
DIST.- KARIMGANJ.

15: BADULAL NATH
S/O- LT. GOPICHARAN NATH
VILL.- SRIKRISHNAPUR
P.O.- DULLAVCHERRA
DIST.- KARIMGANJ.

16: FARUK AHMED
S/O- LT. MATASIN ALI
VILL.- KACHUKOURI
P.O.- RATABARI
DIST.- KARIMGANJ.

17: MONORANJAN ROY
S/O- LT. SUKLAL ROY
VILL.- SUGARMILL COLONEY
P.O.- RATABARI
DIST.- KARIMGANJ.

18: ANANGON KUMAR DAS
S/O- LT. ANNADA CHARAN DAS
VILL.- R.K. NAGASR
WARD NO. 10
P.O.- R.K. NAGAR
DIST.- KARIMGANJ.

19: INDU BHUSAN PAUL
S/O- LT. BROJENDRA CHANDRA PAUL
VILL.- BERATUK
P.O.- ANIPUR
DIST.- KARIMGANJ.

20: KHALILUR RAHMAN
S/O- LT. KURMAN ALI
VILL.- SOUTH LAPASIL
P.O.- LAKHIBAZAR
DIST.- KARIMGANJ.

21: RANJIT ROY
S/O- LT. RADHIKA MOHAN ROY
VILL.- SUGERMILL COLONEY
P.O.- RATABARI
DIST.- KARIMGANJ.

22: SARADINDU PAUL
S/O- LT. SRISH RANJAN PAUL
VILL.- R.K. NAGAR
DIST.- KARIMGANJ.

23: ANIL CHANDRA DAS
S/O- LT. SURENDRA DAS
VILL.- SUGARMILL COLONEY
P.O.- RATABARI
DIST.- KARIMGANJ.

24: ABADUR RAHMAN
S/O- LT. ROSHID ALI
VILL.- BALIBOND
P.O.- R.K. NAGAR
DIST.- KARIMGANJ.

25: IZZADUR RAHMAN
S/O LT. ABDUR RAJAK
VILL. EAST TONSIBARI
P.O. RATABARI
DIST- KARIMGANJ

26: MUJAIMIAL ALI
S/O LT. LATE AADMED ALI
VILL. NETAINAGAR
P.O. RATABARI
DIST- KARIMGANJ

27: TASBIR ALI
S/O LT. EKRAM ALI
VILL. SARKARIBARI
P.O. RATABARI
DIST- KARIMGANJ

28: ABDUL MALIK CHOUDHURY
S/O LT. HAJI RAHIB ALI CHOUDHURY
VILL. MAIZDHI
P.O. KARIMGANJ
DIST- KARIMGANJ

29: RANJAN NATH CHOUDHURY
S/O LT. REBATI MOHAN NATH
VILL. SRINATH ROAD LALA TOWN
DIST- HAILAKANDI

30: TAJ UDDIN CHOUDHURY
S/O LT. IMRAN UDDIN CHOUDHURY
VILL. SAIDPUR PART-IV
P.O. CHARKISAH
MAKUM
DIST- CACHAR

31: RAJ KUMAR DAS
S/O LT. BAIKUNTA DAS
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

32: SUNAB ALI
S/O LT. MICHIR ALI
VILL. NETAINAGAR
P.O. RATABARI
DIST- KARIMGANJ

33: MANNAN ALI
S/O LT. SAFAR ALI
VILL. NETAINAGAR
P.O. RATABARI
DIST- KARIMGANJ

34: MASUR ALI
S/O LT. JABAD ALI
VILL. HULASHNAGAR
P.O. ANIPUR
DIST- KARIMGANJ

35: SUNAMANI SINHA
S/O LT. SENA CHANTA SINHA
VILL. JAMIRALA
P.O. THINOKHAL
DIST- KARIMGANJ

36: CHANDAN DAS
S/O LT. JAMINI MOHAN DAS
VILL. PATHARKANDI
P.O. PATHARKANDI
DIST- KARIMGANJ

37: NOGENDRA CHANDRA DAS
S/O LT. GIRINDRA CHANDRA DAS
P.O. RATABARI
DIST- KARIMGANJ

38: FAYJUL HUSSAIN
S/O LT. KUTUB ALI
VILL. 37 HALL
P.O. ANIPUR
DIST- KARIMGANJ GANDARAJBARI
P.O. RATABARI
DIST-

39: ABDUL JALIL
S/O LT. ABDUL MAJID
VILL. HULASHNAGAR
P.O. ANIPUR
DIST- KARIMGANJ

40: MANIK ALI
S/O LT. SAYAB ALI
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

41: GAURISH CHAKRABARTY
S/O LT. GANGAHARI CHACKABARTY
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

42: LEELA MALAKAR
W/O MONILAL SINHA
VILL. LAKHISAGAR
P.O. HAILAKANDI
DIST- KARIMGANJ

43: ABDUL KHALIQUE
S/O LT. ERAB ALI
VILL. HULASHNAGAR
P.O. ANIPUR
DIST- KARIMGANJ

44: FORMINA BIBI
W/O LATE IJJAD ALI
VILL. HULASHNAGAR
P.O. ANIPUR
DIST- KARIMGANJ

45: BELA DAS
W/O LATE RANJIT DAS
S/O LT. UPENDRA DAS
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

46: CHANDRABALI SINHA
W/O LATE LAKHI KANTO SINHA
S/O LT. DHANSENA SINHA
VILL. SUGARMILL COLONEY

P.O. RATABARI
DIST- KARIMGANJ

47: SIPRA RANI NATH
W/O LATE SANAT KUMAR NATH
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

48: NUREEN NEHAR
W/O LATE TASIR AHMED
VILL. EAST TONGIBARI
P.O. RATABARI
DIST- KARIMGANJ

49: KHOIRUN NESSA
W/O LATE ABDUL KADIR
S/O LT. SOBAD ALI
VILL. EAST TONGIBARI
P.O. RATABARI
DIST- KARIMGANJ

50: SAB UDDIN
S/O LATE ABDUL SAMAD
VILL. CHARGOLA TE P.O. LILACHILA
DIST- KARIMGANJ

51: MINARA BEGUM
W/O LATE ALA UDDIN
VILL. HULASHNAGAR
P.O. ANIPUR
DIST- KARIMGANJ

52: MUKTA DAS
W/O LATE PROMOTH RANJAN DAS
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

53: SULTA ROY
S/O LATE PRITHIMANY ROY
VILL. SUGARMILL COLONEY
P.O. RATABARI
DIST- KARIMGANJ

54: SHYAMOL ROY
S/O LT. SUMANTO KR. ROY
VILL. NOBINDRA

P.O. ANILGARH
DIST- KARIMGANJ

55: RATHINDRA GOSWAMI
S/O LT. RASAMOY GOSWAMI
VILL. KALINAGAR
P.O. KADAMTALA
DIST- KARIMGANJ

56: RADHAMADHAB CHAKRABARTY
S/O LT. GOPESH CHANDRA CHAKRABARTY
VILL. LINK ROAD
SILCHAR-

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY IT SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF
INDUSTRIES, ASSAM, DISPUR, GUWAHATI-6.

2:CACHAR SUGAR MILLS LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
ASSAM INDUSTRIAL DEVELOPMENT CORPORATION
RG BARUAH ROAD
GHY-24

3:THE MANAGING DIRECTOR
ASSAM INDUSTRIAL DEVELOPMENT CORPORATION
R.G. BARUAH ROAD
GHY-24

4:THE CHAIRMAN BOARD OF DIRECTORS
CACHAR SUGAR MILLS LTD. AIDS COMPLEX
R.G. BARUAH ROAD
GHY-24

5:THE SECRETARY TO THE GOVT. OF ASSAM
PUBLIC ENTERPRISE DEPARTMENT
DISPUR

6:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI-6

Linked Case : WP(C)/6027/2022

RAJMOHON SINGHA AND 39 ORS
S/O LATE BABADHAN SINHA
R/O VILL- PATIALA

P.O.- PECHALA
P.S.-RATABARI

DIST.- KARIMGANJ
ASSAM

2: SRI SHYAMOL ROY
S/O LT. SUMANTO KR. ROY
VILL- NOBINDRA P.O. ANILGARH
DIST-KARIMGANJ

3: DIPTI RANJAN DEY
SON OF LT. DIGENDRA KR. DAY
CACHAR SUGAR MILL
P.O. RATABARI
DIST.- KARIMGANJ.

4: RAJMONI SINGHA
LT AKHYAI SINGHA
CACHAR SUGAR MILL
P.O. RATABARI
DIST.- KARIMGANJ.

5: DIPENDRA KUMAR DAS
SON OF LT. DIGENDRA KR. DEY
P.O. RATABARI
DIST.- KARIMGANJ.

6: ABDUR RAIS
S/O LT. KATAN ALI

VILL-HULASHNAGAR

P.O. ANIPUR

DIST-KARIMGANJ

7: MAHBAT ALI
S/O LT. GABAD ALI

VILL-HULASHNAGAR
P.O.- ANIPUR

DIST-KARIMGANJ.

8: NURUL ISLAM LASKAR
S/O LT.MURAKIB ALI LASKAR

VILL- SUGARMILL COLONEY

P.O.- RATABARI
DIST-KARIMGANJ

9: ANIL CHANDRA DAS
S/O LT. SURENDRA DAS

VILL- SUGARMILL COLONEY

P.O.- RATABARI
DIST-KARIMGANJ

10: ABDUL JALIL
S/O LT. ABDUL MAJID

VILL-HULASHNAGAR
P.O. ANIPUR

DIST.- KARIMGANJ

11: ABDUL LATIF
S/O LT. JABAD ALI

VILL-HULASHNAGAR P.O. ANIPUR

DIST- KARIMGANJ

12: RAFIJUL ALI
S/O LT. IRFAN ALI

VILL- BEHAIRDALA
P.O.-LILACHILA

DIST- KARIMGANJ

13: SARADINDU PAUL
S/O LT. SRISH RANJAN PAUL

VILL- R.K.NAGAR
DIST-KARIMGANJ

14: SUBASH PAUL
CACHAR SUGAR MILL

P.O.-RATABARI
DIST-KARIMGANJ

15: PRAMESH CHACRABARTY
S/O LT. PRONoy CHAKRABARTY

VILL- DURGANAGAR

P.O.- RATABARI
DIST-KARIMGANJ

16: MONORANJAN ROY
S/O LT. SUKLAL ROY

VILL- SUGARMILL COLONEY

P.O.-RATABARI
DIST-KARIMGANJ

17: MD. MANNAN ALI
S/O LT. SAFAR ALI

VILL- NETAINAGR

P.O.-RATABARI
DIST-KARIMGANJ

18: RAJKUMAR DAS
S/O LT. BAIKUNTA DAS
VILL- SUGARMILL COLONEY

P.O.- RATABARI
DIST-KARIMGANJ

19: FAIZUR RAHMAN
SON OF ABDUL RAICHH
CACHAR SUGAR MILL COLONEY

P.O. RATABARI
DIST-KARIMGANJ

20: GAURISH CHAKRABORTY
S/O LT. GANGAHARI CHAKRABARTY

VILL- SUGARMILL COLONEY

P.O. RATABARI
DIST-KARIMGANJ

21: GAUR CH. SARMAH
S/O LT. RAJBABU SARMAH
VILL-LENGERPAR
P.O.-MULIALA

DIST-KARIMGANJ

22: ASHUTUSH SARMA
SON OF LATE CHARU CH. SARMA
P.O. AND P.S.- RATABARI
CACHAR
ASSAM

23: SRI NOGENDRA CHANDRA DAS
S/O LT. GIRINDRA CHANDRA DSA

P.O. RATABARI
DIST-KARIMGANJ

24: GAURAB BHATTACHARJEE
SON OF LT. GANGESH BHATTACHARJEE CACHAR SUGAR MILL
P.O. RATABARI
DIST-KARIMGANJ

25: SMT. SIKHA CHOUDHURY
W/O. RANJAN NATH CHOUDHURY
S/O LT. REBATI MOHAN NATH
VILL-SRINATH ROAD LALA TOWN

DIST-HAILAKANDI

26: SMTI. SIPRA RANI NATH
WIFE OF LATE SANAT KUMAR NATH
VILL-SUGARMILL COLONEY
P.O.- RATABARI
DIST.KARIMGANJ

27: MENARA BEGUM
W/O. LATE ALA UDDIN
VILL-37 HALL
P.O.- ANIPUR

DIST. KARIMGANJ
DIST. KARIMGANJ

28: AMINA BEGUM
W/O.- SUNAB ALI
S/O LT. MICHIR ALI

VILL - NETAINAGAR P.O.- RATABARI

DIST-KRIMGANJ

29: JHIMI ROY
W.O.- LATE RANJIT ROY
VILL- SUGARMILL COLONEY

P.O.- RATABARI
DIST-KARIMGANJ

30: FORMINA BIBI
WIFE OF LATE IJJAD ALI
VILL-HULASHNAGAR

P.O. ANIPUR

DIST- KARIMGANJ

31: SALEHA BEGUM
W/O. LATE IZZADUR RAHMAN
S/O LT. ABDUR RAJAK

VILL- EAST TONSIBARI

P.O.-RATABARI
DIST-KARIMGANJ

32: NURAL NEHAR
WIFE OF TASIR AHMED
VILL- EAST TONGIBARI
P.O.- RATABARI
DIST.-KARIMGANJ

33: FAKHRUN NESA
W/O. LATE AJAIB ALI
VILL- SORKARIBARI

P.O.-RATABARI

DIST- KARIMGANJ

34: CHANDRAWALI SINGHA

WIFE OF LATE LAKHI KANTO SINHA
S/O LT. DHANSENA SINHA
VILL-SUGARMILL COLONEY
P.O. RATABARI
DIST-KARIMGANJ

35: MAJIDA KHATUN CHOUDURY
W/O. LATE ABDUL MALIK CHAUDHURY
S/O LT. HAJI RAHIB ALI CHOUDJURY
VILL-MAIZDHI P.O. KARIMGANJ

DIST-KARIMGANJ

36: BELA DAS
WIFE OF LATE RANJIT DAS
S/O LT. UPENDRA DAS
VILL- SGARMILL COLONEY
P.O. RATABARI
DIST.-KARIMGANJ

37: LAGNAWAN MALAKAR
W/O. NIBARAN MALAKAR
S/O LT. NORESH MALAKAR
VILL-GANDARAJBARI
P.O.- RATABARI
DIST. KARIMGANJ

38: KHAIRUN NEESSA
WIFE OF LATE ABDUL KADIR
S/O LT. SOBAD ALI
VILL- EAST TONGIBARI

P.O. RATABARI
DIST-KARIMGANJ

39: ASITA BHATTACHARJEE
W/O. LATE BIJIT KUMAR BHATTACHARJEE P.O. RATABARI
DIST-KARIMGANJ

40: ANJALI CHAKRABORTY
W/O. LATE KAJAL CHAKRABORTY
P.O. RATABARI
DIST-KARIMGANJ
VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF INDUSTRIES

AND COMMERCE ASSAM
DISPUR
GUWAHATI-6

2:CACHAR SUGAR MILLS LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
ASSAM INDUSTRIAL DEVELOPMENT CORPORATION
RG BARUAH ROAD
GUWAHATI-24.

3:THE MANAGING DIRECTOR
ASSAM INDUSTRIAL DEVELOPMENT CORPORATION
R.G. BARUAH ROAD
GUWHATI-24.

4:THE CHAIRMAN BOARD OF DIRECTORS
CACHAR SUGAR MILLS LTD.
AIDC COMPLEX
R.G. BARUAH ROAD
GUWAHATI-24

5:THE SECRETARY TO THE GOVERNMENT OF ASSAM
PUBLIC ENTERPRISE DEPARTMENT
DISPUR

6:SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI -6

Advocate for the Petitioner : Mr. M. Saikia, Advocate

Advocate for the Respondents : Mr. A. Kalita,

Mr. J. K. Goswami,

Mr. P. Nayak, Advocates

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 16.05.2023

Date of Judgment : 16.05.2023

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. Saikia, the learned counsel for the petitioners and Mr. A. Kalita, the learned counsel appearing on behalf of the respondent Nos.1 & 5. Also heard Mr. J. K. Goswami, the learned counsel appearing on behalf of the respondent Nos.2 to 4 as well as Mr. P. Nayak, the learned counsel appearing on behalf of the respondent No.6.

2. The facts in both the writ petitions being similar and the question of law involved are paramateria, both the writ petitions are taken up for disposal by this common judgment.

3. The issue involved in the writ petition filed at a later point of time pertains to as to whether the petitioners would be entitled to the revision of pay in terms with the Assam Services (ROP) Rules, 2010 as well as other benefits as claimed in the writ petitions. It further transpires from a perusal of the writ petition registered as WP(C) No.807/2013 that it is the case of the petitioners that in terms with the Wage Board's recommendation, the age of the superannuation was 60 years and also as per the Government of Assam's Office Memorandum dated 25.01.2005, the age of retirement of Grade-IV employees was 60 years whereas the retirement age all other employees was enhanced from 58 to 59 years. It is, therefore, the case of the petitioners herein that while settling the VRS entitlement of the petitioners, they have been deprived on the basis of not calculating their entitlement in terms with the Assam Services (ROP) Rules, 2010 as well as not calculating their age of retirement as 59 years or 60 years as the case may be for Grade-III and Grade-IV employees respectively.

4. At this stage, it may be relevant herein to mention that the petitioners in WP(C) No.807/2013, sought for the relief for recalculating the retirement benefits by giving up-to-date revision of pay as per the Revision of Pay Rules, 1998 and taking the age of superannuation as 60 years to the petitioners and to pay them all further benefits consequent thereto.

5. This Court has made a specific query upon the learned counsel for the petitioners as to

why two writ petitions were filed by the same set of writ petitioners except the few who have been left out in the second litigation. The learned counsel for the petitioner submitted that in the second writ petition, the claim of the petitioners is on the basis of calculation of VRS benefits in terms with the Assam Services (ROP) Rules, 2010 and also as certain claims pertaining to Medical Allowances and House Rent Allowances were left out in the earlier writ petition, the same have been claimed in the writ petition filed at a later point of time.

6. Let this Court first take into consideration as to the entitlement of the petitioners in terms with the Assam Services (ROP) Rules, 2010. The petitioners herein admittedly were employed in a public undertaking of the Government of Assam. It is relevant to take note of that on 04.02.2010, a notification was issued by the Government of Assam, Finance (PRU) Department thereby notifying the Assam Services (ROP) Rules, 2010 (for short, 'the Rules of 2010'). Although in terms with Rule 1(b) of the said Rules of 2010, it was brought into effect on 01.01.2006, but in terms with the Rule 2 (b) (v), it was categorically mentioned that unless specifically extended under express order of the Government, the Rules of 2010 shall not apply to officers and staff of public undertaking of the Government of Assam. A perusal of Annexure-12 in WP(C) No.6027/2022 shows that it was only vide the communication dated 26.09.2012, the Joint Secretary to the Government of Assam, Industries and Commerce Department had informed the Managing Director of the Assam Industrial Development Corporation (AIDC) Ltd., the decision of the Government in the Industries and Commerce Department's approval to the proposal for revision of pay of the employees of AIDC Ltd. as per the Assam Services (ROP) Rules, 2010. From a perusal of the said document, however, it does not appear as to whether the Rules of 2010 was extended to the Assam Industrial Development Corporation Ltd. w.e.f. 01.01.2006 or such other date other than 26.09.2012. Therefore, by virtue of Rule 2(b) (v) of the Rules, 2010 and upon a perusal of the communication dated 26.09.2012, this Court is of the unhesitant opinion that the petitioners herein cannot claim their recomputation of their VRS entitlement on the basis of the Rules of 2010 as the petitioners were not in service as on

26.09.2012.

7. Now coming to the question as regards the entitlement of the petitioners on the basis of the Revision of Pay Rules, 1998 as claimed in WP(C) No.807/2013. In the said writ petition, an affidavit has been filed by the Managing Director of Cachar Sugar Mill who have been impleaded as Respondent No.3. A perusal of the said affidavit disclose that there were two categories of permanent employees in Cachar Sugar Mill. One group consists of 22 employees and had accepted the State Government/AIDC Ltd. pay scale and the other consists of 122 employees who have accepted Sugar Wages Board's pay scale. It was further mentioned that the Management of the Cachar Sugar Mill followed both the revision of pay scale of Government of Assam as per ROP 1998 and the 3rd Sugar Wages Board carefully and dues were calculated as per ROP 1998 in respect to those employees who accepted the State Government/AIDC Ltd. pay scale and the 3rd Wages Board Scale in respect to those employees who accepted the Sugar Wages Board's pay scale. It was further mentioned that after calculation of the arrear salaries, gratuity, VRS etc., the same were submitted before the Government for approval and the release of the fund. Thereafter, due payments were made to the employees including the petitioners after release of the fund by the Government and while receiving the benefits, the petitioners/employees inter-alia submitted individual undertakings to the Respondent No.2 to the effect that they have no further claim on any account whatsoever. It has further been mentioned that the dues including arrear salary, gratuity, leave salaries, VRS benefits were calculated upto 31.03.2007 as per the closure Notice dated 27.04.2007, and accordingly, the notice was duly published and payments were released. Therefore, the payment of arrear salaries till the year 2009 did not arise. In paragraph No.6 of the said affidavit, it has been further mentioned that the pay scale for the employees under the Central Sugar Board pay have not been considered as no revision was made in 1998 under the Central Sugar Wages Board as per records available with them.

8. At this stage, if this Court takes note of the documents enclosed to the writ petition, more particularly Annexure-4 in WP(C) No.807/2013, it is seen that the petitioners have claimed on the basis of the report of the 3rd Central Wages Board of Sugar Industries dated 31.01.1989. Therefore, this Court finds no ground to interfere or issue a writ in the nature of mandamus directing the respondent authorities to recompute the VRS entitlement in view of the specific stand taken by the respondent Nos.2 & 3 in the affidavit to the effect that some of the employees who had accepted the pay scale of AIDC Ltd., their entitlement were calculated on the basis of the revision made in the year 1998 by the State of Assam and those employees who had accepted the Central Wages Board's pay scale were also granted the benefits in terms with the 3rd Sugar Wages Board's recommendations.

9. At this stage, this Court finds it relevant to mention that this Court made a query upon the learned counsels for the petitioners as well as the respondents as to why two different pay scales were adopted for the VRS entitlement in as much as a set of 22 employees received the VRS entitlement on the basis of the Revision of Pay Rules, 1998 and 122 employees received the VRS entitlement on the basis of Wage Board recommendation. It was submitted at the Bar that the employees were given the option to choose the pay scale under the AIDC or the Wage Board and those employees who choose the Wage Board recommendation were given the pay scale as per Wage Board and those who choose the AIDC pay scale were given the Pay Scale applicable to AIDC. It was further submitted that at no point, the petitioners herein raised the issue claiming the AIDC pay scale and after having received the VRS entitlement without demurrer have now claimed the Revision of Pay, 1998. This Court is of the opinion that in the present facts as the petitioners had duly opted for the pay scale under the Wage Board recommendation and having enjoyed the same throughout their service career now cannot raise the claim as per the Revision of Pay, 1998 that too after accepting the VRS entitlement with demurrer in the year 2007.

10. Now the next question, therefore, arises as regards the entitlement of the petitioners for computation of their VRS entitlement by taking 60 years as the date of superannuation. Taking into account that it is an admitted stand taken by the respondent Nos.2 & 3 in the affidavit that the computation of the entitlement of the petitioners were made on the basis of age of superannuation at 58 years, the learned counsel appearing on behalf of the petitioners submitted that in terms with the 3rd Sugar Wages Board's recommendations, and more particularly at Clause 18, it has been categorically mentioned that the age of superannuation is fixed at 60 years which was duly accepted by the respondent Nos.2 & 3. The learned counsel for the petitioners further submitted that this aspect of the matter is further clear from the affidavit wherein also they accepted that they have paid salaries or calculated their entitlement on the basis of the 3rd Wages Board's recommendations. The learned counsel for the petitioners further drawing the attention of this Court to the Office Memorandum dated 25.01.2005 of the Government of Assam to the effect that the age of superannuation was increased from 58 to 59 years w.e.f. 01.01.2005 in respect to all other employees and in respect to Grade-IV, the age of superannuation was 60 years. It is, therefore, the stand of the petitioners herein that that the entitlement of the petitioners should be taken into consideration by taking into account the age at 59 years, if those employees were Grade-III employees and 60 years if those employees were Grade-IV employees.

11. Upon hearing the learned counsel for the petitioners as well as the respondents, this Court is also of the opinion that taking into account Clause 18 of the 3rd Wages Board's recommendations which categorically stipulates that the superannuation age to be 60 years as well as the Office Memorandum of the Government of Assam which stipulates for Grade-IV employees' retirement age to be 60 years and for other employees to be 59 years, the petitioners have been able to make out a case for recomputation of their entitlement by taking into account their age to be 59 years and/or 60 years as the case may be depending on whether they were Grade-III or Grade-IV employees respectively.

This, however, would require a verification to be made by the respondent Nos.2, 3 & 4 in WP(C) No.807/2013.

12. The learned counsel for the petitioners further submitted that this Court while dealing with the same VRS scheme, i.e. in the case of *Asom Rajyik Bastra Nigam Karmachari Santha And Another vs. the State of Assam and 4 Others* in WP(C) No.2633/2014 vide judgment and order dated 05.01.2023 had observes that the similarly situated persons like the petitioners would be entitled to Medical Allowances as well as House Rent Allowances as the part of their salaries for computation of the VRS entitlement.

13. The learned counsel for the respondents, more particularly, the respondent Nos.1 & 5 have also submitted that this Court along with other Coordinate Benches had also held that the Medical Allowances as well as House Rent Allowances to be a part of the salary while computing the entitlement.

14. In that view of the matter, this Court taking into account the judgment and order dated 05.01.2023 in the case of *Asom Rajyik Bastra Nigam Karmachari Santha And Another* (supra) further observes that while computing the salaries of the petitioners, the Medical Allowances as well as House Rent Allowances shall also be taken into consideration.

15. Accordingly, both the writ petitions stand disposed of with the following observations and directions:-

(i) The petitioners are not entitled to claim their entitlement on the basis of the Assam Services (ROP) Rules, 2010;

(ii) The petitioners are entitled to the recomputation of their VRS entitlement by taking into account the age of superannuation to be 59 years for Grade-III employees and 60 years for Grade-IV employees and in that regard the respondent Nos.2, 3 & 4 shall make necessary verification to that effect and recompute the same within a period of 3 (three) months from the date of submission of a certified copy of the instant judgment and order;

(iii) The respondent Nos.2, 3 & 4 are further directed to recompute the entitlement of the petitioners on the basis of their salaries by taking note that the Medical Allowances as well as House Rent Allowances shall form a part of salary of the petitioners. Such exercise be completed within the period mentioned in clause (ii) herein above;

(iv) The petitioners are not entitled to the claim as regards recomputation of their salaries on the basis of the Revision of Pay of 1998 other than what have already been given to them as stated in the affidavit-in-opposition filed by the respondent Nos.2 & 3 as already mentioned herein above.

16. In the present facts and circumstances, this Court is not inclined to impose costs.

JUDGE

Comparing Assistant