

GAHC010191382020



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

Case No. : WP(C)/5781/2020

LOKNATH BORA AND 17 ORS
S/O. LT. DAYARAM BORO, R/O. VILL. GHAHI, P.O. BHATIKURI, P.S. RAHA,
DIST. NAGAON, ASSAM, PIN-782144.

2: JAGAT CHANDRA BORA
S/O. LT. NANDALAL BORA
VILL. GHAHI
P.O. BHATIKURI
P.S. RAHA
DIST. NAGAON
ASSAM
PIN-782144.

3: KARUNA KANTA DAS

S/O. SRI KISHAB CHANDRA DAS
VILL. ATHARA
BAMUNBARI
P.O. PUTHIMARI
P.S. RANGIA
DIST. KAMRUP
ASSAM
PIN-781380.

4: HARIRAJ PRASAD
S/O. LT. BATAHI PRASAD
VILL. KHRISTANPATTY
P.O. NAGAON
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782001.

5: BAIDYA NATH PRASAD

S/O. LT. RAM CHANDRA
R/O. VILL. HAIBORGAON
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782002.

6: NAYAN KUMAR DAS
S/O. LT. SUSIL DAS
VILL. KHRISTANPATY
P.O. NAGAON
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782001.

7: JITEN CHANDRA DAS

S/O. LT. SURULARA DAS
VILL. HAIBORGAON
P.O. AND P.S. HAIBORGAON
DIST. NAGAON
ASSAM
PIN-782002.

8: TANKESWAR GOWALA
S/O. LT. AKAN GUALA
R/O. VILL. FOUSDARIPATY
P.O. NAGAON
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782001.

9: AKBAR ALI
S/O. ASHALE ALI
VILL. DHING
BELOTIA
P.O. AND P.S. DHING
DIST. NAGAON
ASSAM
PIN-782123.

10: PRABHUYA ROBI DAS

S/O. LT. LALI ROBI DAS
R/O. VILL. BHYAPATY
P.O. AND P.S. HAIBORGAON

DIST. NAGAON
ASSAM
PIN-782002.

11: HADAYAT ALI
S/O. LT. LATE RAMJAN ALI
VILL. MUAMARI
P.O. SENCHOWA
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782002.

12: BAHAR ALI
S/O. BASHIRUDDIN ALI
VILL. MUAMARI KOCH
P.O. SENCHOWA
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782002.

13: PHATIK CHANDRA BORA
S/O. LT. ROBIRAM BORA
VILL. HATIPARA
P.O. DEKARGHAT
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782003.

14: BHABA KANTA NATH
S/O. LT. BUKARAM NATH
VILL. SENCHOWA
P.O. SENCHOWA
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782002.

15: ANANANDA NATH
S/O. LT. DOMBARU NATH
VILL. THANASARURA
P.O. SAPMARI
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM
PIN-782104.

16: HEM CHANDRA KAKATI
S/O. LT. SARUMAN KAKOTI
VILL. SENCHOWA
P.O. SENCHOWA
P.S. SADAR
DIST. NAGAON
ASSAM
PIN-782002.

17: RAMSANKAR PRASAD
S/O. LT. DODHNATH PRASAD
VILL. BHYNPATTY
P.O. HAIBORGAON
P.S. HAIBORGAON
DIST. NAGAON
ASSAM
PIN-782002.

18: HITESWAR DAS
S/O. LT. CHANDRA KANTA DAS
VILL. GHAHI
UJANIKURI
P.O. BHATIKURI
P.S. RAHA
DIST. NAGAON
ASSAM
PIN-782144

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM, WATER
RESOURCES DEPTT., DISPUR, GUWAHATI-781006.

2:THE CHIEF ENGINEER

WATER RESOURCES DEPTT.
CHANDMARI
GUWAHATI781003.

3:THE EXECUTIVE ENGINEER

NAGAON WATER RESOURCES DIVISION IN NAGAON
ASSAM.

4:THE COMMISSIONER AND SECY.
GOVT. OF ASSAM

FINANCE DEPTT.
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. Y S MANNAN

Advocate for the Respondent : SC, WATER RESOURCE

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 15-12-2023

1. Heard Mr. YS Mannan, learned counsel for the petitioners.
2. This is an application under Article 226 of the Constitution of India for setting aside and quashing the impugned Notification dated 03.10.2019 issued by the Principal Secretary to the Government of Assam, Finance Department and resultant office order dated 14.10.2019 issued by the Chief Engineer, Water Resources Department. The further prayer is for a direction to allow the petitioners to receive the minimum pay scale along with other allowances as per notification dated 08.03.2019 issued by the Commissioner & Secretary to the Government of Assam, Finance Department and the office order dated 22.04.2019 issued by the Executive Engineer, Nagaon Water Resource Division.
3. The basic ground of such challenge is that the impugned order has been issued in derogation of the decision of the Division Bench of this court in ***State of Assam Vs. Upen Das (WA 45/2014)*** and the determination made by the Hon'ble Apex Court in the case of ***State of Punjab and ors. vs Jagjit Singh and Ors.***

reported in **(2017) 1 SCC 148**.

4. The petitioners are temporary/muster roll/work charged employees. It is the case of the petitioners that they are entitled for minimum pay scale and other allowances that have been granted to the similarly situated permanent government employees. However, according to them, in terms of the the notifications minimum of the scale of pay of similarly placed employees are being granted and not the pay scale and other allowances being granted to similarly placed permanent employees and thus, they are being deprived of their rights as determined in **Upen Das (supra)** and **Jagjit Singh (Supra)**.

5. Division Bench in **Upen Das** directed the State to pay **minimum of the pay scale** (emphasis supplied) to the master roll workers, work charged employees and similarly placed employees working since last more than 10 years w.e.f. 01.08.2017. Thus it is clear that what was directed to be granted is the minimum of the pay scale not the pay scale and other allowances.

6. In **jagjit Singh** at paragraph 61 it was held that the temporary employees would be entitled to draw wages **at the minimum of the pay scale**. Such "**minimum of the pay scale**" is defined as **the pay scale** at the lowest grade, in the regular pay scale extended to regular employees holding the same post. (emphasis supplied).

7. In the terms of the impugned notification dtd.03.10.2019 the wages/remuneration is to be fixed at the minimum of the pay scale. It was further provided in the notification dtd.03.10.2019 that

the DA will undergo revision whenever pay scale changes. An amount Rs. 600 p.m. was also fixed for medical allowance with a further addition of bringing the workers/employees under Pradhan Mantri Suraksha Bima Yojana, Pradhan Mantri Jeevan Jyoti Bima Yojana and Atal Amrit Abhiyan, the premium of which is to be borne by the State Government.

8. That being the position, this Court is of the opinion that the petitioners are having no vested and concluded right to claim equal scale of pay along with all other benefits paid to similarly situated permanent employees under the mandate, either of **Jagjit Singh (supra)** or under **Upen Das (supra)** and accordingly, this court is of the view that the petitioners have failed to make out any case of interference with the impugned orders and notifications in exercise of this Court's power under Article 226 of the Constitution of India.

9. Accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant