

GAHC010194582011



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

Case No. : WP(C)/5575/2011

THE ASSAM FISHERIES DEVELOPMENT CORPORATION EMPLOYEES'
WELFARE ASSOCIATION
REP. BY BY ITS GENERAL SECY. SRI TARINI DEKA, MOTHER TERASA
ROAD, GHY-24

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE COMMISSIONER AND SECY. , GOVT. OF ASSAM, FISHERIES
DEPTT, DISPUR, GHY-6
2:THE PUBLIC ENTERPRISE DEPTT
GOVT.OF ASSAM
REP.BY ITS COMMISSIONER AND SECY. DISPUR
GHY-6
3:THE ASSAM FISHERIES DEVELOPMENT CORPN LTD
REP BY ITS MANAGING DIRECTOR
MOTHER TERESA ROAD
GHY-24
4:THE SECY TO THE GOVT OF ASSAM
FINANCE DEPTT, DISPUR, GHY-

Advocate for the Petitioner : MR.M K CHOUDHURY

Advocate for the Respondent : SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 23.03.2023

Heard Mr.M. Sharma, the learned counsel appearing on behalf of the
Petitioner. Mr. P. Sharma, the learned counsel appears on behalf of Assam

Fisheries Development Corporation and Mr. A. Chaliha, the learned counsel appears on behalf of the Finance Department.

2. The instant writ petition has been filed by the Petitioner Association which represents the employees working under the Assam Fisheries Development Corporation. The challenge in respect to the instant writ petition is to the notification dated 07/06/2011 whereby the Assam Service (Revision of Pay) Rules, 2010 was extended to the State Level Public Enterprise w.e.f. 01/01/2011. It is the case of the petitioners herein that the Assam Fisheries Development Corporation in terms with the notification dated 07/06/2011 falls within the category C1 and the applicability of the Assam Service (Revision of Pay) Rules 2010 was subject to the Assam Fisheries Development Corporation being audited upto 2009-10. It is the case of the petitioner that the audit to be done to the Respondent-Corporation is not within the hands of the members of the petitioner and as such because of the inaction on the part of the Respondent-Corporation to perform the required statutory audit, members of the petitioner should not be deprived of their entitlement in terms with the Assam Service (Revision of Pay) Rules, 2010.

3. On the other hand, Mr. P. Sharma, the learned counsel appearing on behalf of the Respondent –Corporation submits that the statutory audit of the Respondent-Corporation has been duly done and at present the Respondent-Corporation is paying its employees in terms with the 7th Pay Commission and as such, nothing survives in the instant writ petition.

4. Mr. A. Chaliha, the learned counsel appearing on behalf of the Finance Department submits that the Assam Service (Revision of Pay) Rules, 2010 cannot be applied automatically to public undertaking such as the Respondent-

Corporation. He submitted that in terms with Rule 2(b) of the Assam Service (Revision of Pay) Rules, 2010, the said extension can be made only by way of an express order by the Government which had been done by the notification dated 07/06/2011.

5. Upon hearing the learned counsel for the parties, this Court does not find any infirmity in the notification dated 07/06/2011 by which the Government of Assam had extended the benefits of the Assam Service (Revision of Pay) Rules, 2010 to the employees of the Assam Fisheries Development Corporation along with other State Level Public Enterprises falling under category C1 making it subject to the completion of the audit upto 2009-10.

6. This Court also has to take note of the submission of Mr. P.Sarma, the learned counsel for the Respondent-Corporation that at present the Respondent-Corporation has been regularly performing its audit and at present giving the benefits of the 7th Pay Commission to the employees of the Respondent-Corporation.

7. Taking into account the same, this Court is of the opinion that nothing survives in the instant writ petition. Accordingly, the writ petition stands closed.

JUDGE

Comparing Assistant