

GAHC010207792023



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

Case No. : WP(C)/5431/2023

JITU SARMA AND 6 ORS.

S/O- LATE GOBINDA SARMA, R/O- 247, HENGRABARI MAIN ROAD, NEAR
SANKAR NAMGHAR, P.S. DISPUR, GUWAHATI-781006, DIST. KAMRUP(M),
ASSAM

2: KABIN DAS

S/O- LATE SIDDHESWAR DAS

R/O- 10

OPPOSITE OF GUYNJAN JAYA ENCLAVE

KAHILIPARA

UDALBAKRA

P.S. DISPUR

GUWAHATI-781019

DIST. KAMRUP(M)

ASSAM

3: UDOY NATH

S/O- LATE PHUKAN NATH

R/O- VILL.- BASACHUBA

P.O. DHEKIAPARA

P.S. SIPAJHAR

PIN- 784145

DIST. DARRANG

ASSAM

4: ARCHANA DAS

D/O- BRAJA RAM DAS

R/O- ASSAM SECRETARIAT

NEAR DISPUR LAW COLLEGE

HARIJAN COLONY

P.S. DISPUR

GUWAHATI-781006

DIST. KAMRUP(M)

ASSAM

5: BIPUL DEKA
S/O- SRI NARANATH DEKA
R/O- VILL.- DALLANG
P.O. PANITEMA
P.S. KAMALPUR
PIN- 781101
DIST. KAMRUP
ASSAM

6: GIRIN CHANDRA TALUKDAR
S/O- LOHIT CHANDRA TALUKDAR
R/O- VILL.- GOSAIKHAT
P.O. SONIADI
P.S. HAJO
PIN- 781102
DIST. KAMRUP
ASSAM

7: MD. RAKIBUDDIN ALI
S/O- SAFIUDDIN ALI
R/O- 157
KAHILIPARA DAKHIN GAON
OPPOSITE BHAGADATAPUR
P.O. KAHILIPARA
P.S. DISPUR

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, SECRETARIAT ADMINISTRATION (NAZARAT)
DEPARTMENT, DISPUR, GUWAHATI-781006, DIST. KAMRUP(M), ASSAM

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FINANCE (EC-II) DEPARTMENT
DISPUR
GUWAHATI-781006
DIST. KAMRUP(M)
ASSAM

3:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
FINANCE (ESTT-B) DEPARTMENT
DISPUR
GUWAHATI-781006
DIST. KAMRUP(M)

ASSAM

4:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL (B) DEPARTMENT
DISPUR
GUWAHATI-781006
DIST. KAMRUP(M)
ASSAM

5:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
SECRETARIAT ADMINISTRATION DEPARTMENT
DISPUR
GUWAHATI-781006
DIST. KAMRUP(M)
ASSAM

6:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006
DIST. KAMRUP(M)
ASSA

Advocate for the Petitioner : MR. N N B CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 18/12/2023

Heard Mr. N.N.B. Choudhury, learned counsel for the petitioners. Also heard Mr. C. S. Hazarika, learned Government Advocate and Mr. B. Gogoi, learned standing counsel, Finance.

2. This writ petition is filed by the petitioners who are employed as Grade-IV employees (Peon/cleaner) under the Department of the Commissioner to the Government of Assam, Secretariat Administration (Nazarat) Department, Dispur.

The petitioners have been continuously working for more than 10 years. The petitioners are before this Court, seeking directions for regularization of their services. However, during the course of the arguments Mr. N.N.B. Choudhury, learned counsel for the petitioners submits that at this stage the writ petitioners want to rely on the Judgment passed by the Division Bench of this Court rendered in *W.A. No.45/2014 (the State of Assam and Ors. Vs Upen Das and Ors.)* disposed of on 08.06.2017.

3. The learned counsel for the petitioners submits that in terms of this Judgment giving the question of regularization open to be decided in an appropriate matter, this Court can direct the respondents to consider the claims for payment of minimum of the pay scale, which the petitioners claim to be entitled to in terms of the Judgment rendered by the Division Bench of this Court.

4. Mr. B. Gogoi, learned standing counsel, Finance department represented the respondent Nos. 1, 2, 3, 5 and 6 and Mr. C. S. Hazarika, learned Government Advocate represents respondent No.4 jointly submits that the matter will require examination to see whether the claims of the petitioners can be redressed in terms of the Judgment rendered in *Upen Das (supra)*.

5. Having heard the learned counsels for the parties and upon careful perusal of the pleadings on record including the Judgment dated 08.06.2017 passed in *Upen Das (supra)*, this court is of the view that if the claim for regularization of the petitioner is not pressed at this stage and the only limited prayer of the petitioner is for a direction to pay the minimum of the pay scale, then the matter stands covered in terms of the directions contained in paragraph 22 of the Judgment of *Upen Das (supra)*. The claim for regularization of the services of the writ petitioners having not been pressed at this stage, is left open to be

decided in an appropriate proceeding, if so advised. For convenience paragraph 22 of the Judgment rendered in *Upen Das (supra)* is extracted below:-

“22. It is, however, heartening to learn that the State Government has agreed not to terminate the Muster Roll, Work Charged and similarly placed employees working since last more than 10 years (not in sanctioned post) till their normal retirement, except on disciplinary ground or on ground of criminal offences. The State Government has also agreed to enlist such employees in Health and Accidental and Death Insurance Scheme, which will be prepared in consultation with the State Cabinet. We appreciate this positive stand of the State Government taken as welfare measures for the betterment and security of the employees, in question. We, accordingly, direct the State Government to implement the measures without further delay. Besides this, we, in the light of decision of the Supreme Court in State of Punjab vs. Jagjit Singh, (2017) 1 SCC 148, also direct the State Government to pay minimum of the pay scale to Muster Roll workers, Work Charged workers and similarly placed employees working since last more than 10 years (not in sanctioned post) with effect from 1.8.2017.”

6. The writ petition, therefore, stands closed with a direction to the respondent No.1, namely, the Department of the Commissioner and Secretary to the Government of Assam, Secretariat Administration (Nazarat) Department, Dispur to examine the claim of the petitioners in respect of their entitlement for being paid the minimum of the pay scale in terms of the Judgment of the Division Bench of this Court rendered in *Upen Das (supra)* and thereafter if the claim of the petitioners are found to be genuine then the benefits that will accrued to the petitioners in terms of the said Judgment should be released expeditiously.

7. Accordingly, the department will now examine the individual prayers of the writ petitioners and thereafter pass a speaking order and thereafter, if found to

be entitled, their benefits as prayed for shall be released.

8. This exercise shall be completed within a period of 60 (sixty) days from the date of receipt of a certified copy of this order to be submitted by the petitioners.

9. Writ petition accordingly stands disposed of. No order as to cost.

JUDGE

Comparing Assistant