

GAHC010217112022



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

Case No. : WP(C)/7150/2022

ANIL DEHINGIA AND 18 ORS.
SON OF - GONESH DEHINGIA,
RESIDENT OF - BORPATHAR RANGI GAON,
P.O. - KAMARGAON
P.S. - BORBORUAH
DISTRICT - DIBRUGARH, ASSAM.
PIN - 786004

2: BISHNU PADA DAS
SON OF - LATE BISHNUPADA DAS

RESIDENT OF - BANSHBARIPATHER

P.O. - DIBRUGARH

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786001

3: SMTI KALPANA GOGOI
WIFE OF - LATE BHOLONG CH. GOGOI

RESIDENT OF VILLAGE - JAPARA GAON

P.O.-MOHANAGHAT

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786008

4: MRS. MOMI BORAH GOGOI
WIFE OF - RITU GOGOI

RESIDENT OF - LANE - D

ASSAM MEDICAL COLLEGE CAMPUS
P.O. - ASSAM MEDICAL COLLEGE

P.S. -DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786002

5: DIPAK CHETRY
SON OF -AMAR BAHADUR CHETRY

RESIDENT OF - BONGAL GAON

ASSAM MEDICAL COLLEGE CAMPUS

P.O. - BANIPUR
P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786003

6: FAIZUR RAHMAN
SON OF - LT. WAHIDUR RAHMAN

RESIDENT OF - DIBRUJAN
JALAN NAGAR

P.O. - JALAN NAGAR

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786005

7: SMT. REKHA KUMARI DEVI
WIFE OF - MR. SURESH THAKUR

RESIDENT OF - 4TH GRADE COLONY

P.O. - ASSAM MEDICAL COLLEGE

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786002

8: DAYANANDA KONWAR
SON OF - LT. SHAYLYA KONWAR

RESIDENT OF - BORPATHER KHANGIA GAON

P.O. - BEHEATING TINIALI

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786004

9: MRS. ANITA DEVI
WIFE OF - SULINDRAR SINGH

RESIDENT OF - SEGUNIBARI
(BARMAN NAGAR)
P.O. - ASSAM MEDICAL COLLEGE

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786002

10: GANESH HANDIQUE
SON OF - DEBEN HANDIQUE

RESIDENT OF - PUBALI PATH
BISHNU NAGAR

P.O. - KADOMONI

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786001

11: BHUBAN KONWAR
SON OF - LATE JUGESWAR KONWAR

RESIDENT OF - BURAHAZAR KONWAR GAON

P.O. - BARBARUAH

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786007

12: SMT. NILIMA BARMAN
DAUGHTER OF - NARAYAN BARMAN

RESIDENT OF - SEGUNIBARI (BARMAN NAGAR)

P.O. - ASSAM MEDICAL COLLEGE

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.

PIN - 786002

13: SMT. BEBE SAIKIA DEHINGIA
WIFE OF - MR. KRISHNA SAIKIA

RESIDENT OF - KUMARINICHIGA KAMARGAON

P.O. - RAJABHETA

P.S. - BORBARUAH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786008

14: AJIT BHUMIJ
SON OF - LATE SARJUBHUMIJ

RESIDENT OF - SEGUNIBARI (BARMAN NAGAR)

P.O. - ASSAM MEDICAL COLLEGE

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786002

15: PRAKASH RAM
SON OF - LT. LALAN RAM

RESIDENT OF - NEW MARKET
KALIBARI WARD

P.O. AND P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786001

16: SMT. SATALI BALMIKI
WIFE OF - LT. DARUBALMIKI
RESIDENT OF - HILOIDHARI CHANDO GAON

P.O. - ASSAM MEDICAL COLLEGES

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 786002

17: SMT. JYOTI GOGOI
WIFE OF -MR. RANJIT CHETIA

RESIDENT OF - BANIPUR BYE LANE NO. 2

P.O. - BANIPUR

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786003

18: SMT. REENA CHUTIA
WIFE OF - LATE KONAKESWAR CHUTIA

RESIDENT OF - SUGUNIBARI (BARMAN NAGAR)
P.O. - ASSAM MEDICAL COLLEGE

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM.
PIN - 786002

19: DURGESWAR BORAH
SON OF - JUGEN BORAH

RESIDENT OF - BONGAL GAON

P.O. - BANIPUR

P.S. - DIBRUGARH

DISTRICT - DIBRUGARH
ASSAM

PIN - 78600

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE (EC-II) DEPARTMENT
DISPUR
GUWAHATI- 781006

3:THE ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI- 781006

4:THE DIRECTOR OF MEDICAL EDUCATION
GOVERNMENT OF ASSAM
SIXMILE
GUWAHATI - 781022

5:THE ASSAM MEDICAL COLLEGE HOSPITAL
DIBRUGARH
REPRESENTED BY ITS PRINCIPAL
DIBRUGARH
ASSAM - 786002

6:THE SUPERINTENDENT OF ASSAM MEDICAL COLLEGE HOSPITAL
DIBRUGARH
- 78600

Advocate for the Petitioner : MR. J PATOWARY

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 01.08.2023

Heard Mr. J. Patowary, learned counsel for the petitioner as well as Mr. D.P Borah, learned standing counsel for the Health Department appearing for respondent nos. 1, 3, 4 to 6 and Mr. A. Chaliha, learned standing counsel for the Finance Department, appearing for respondent no. 2.

2. The petitioners claim that they were appointed as wage earner by the Superintendent of the Assam Medical College and Hospital, Dibrugarh (AMCH, Dibrugarh for short) for running various services in the AMCH, Dibrugarh. The petitioners had approached this Court seeking a direction upon the respondent authorities to pay them monthly salary pay Band-I- Rs.12000-37500 + Grade Pay of Rs.3900/-. It is not in dispute that the petitioners are being paid fixed pay of Rs.9000/- per month. The learned counsel for the petitioners has invoked the principle of equal work equal pay and by placing reliance on the decision of the Division Bench of this Court in the case of *State of Assam Vs. Upen Das and Ors., 2020 (5) GLT 605* by which this Court while holding that the respondents therein may not entitle for regularization of services with consequential benefits, directed the State Government to pay minimum of pay scale to the muster roll

workers/ work charge workers and similarly placed employee workings since last 10 years (not in sanctioned post) w.e.f. 01.08.2017.

3. The learned counsel for the petitioners has submitted that in the present case in hand, the petitioners have served the AMCH, Dibrugarh for more than 10 years. The learned counsel for the petitioners has also referred to another decision by the coordinate Bench of this Court in the case of *Jadumoni Nath & Ors. Vs. State of Assam and Ors.*, WP(C) 7711/2016 decided on 10.11.2022 where set of similarly situated employees were also granted the benefit flowing from the decision of this Court in the case of *Upen Das (supra)*.

4. On facts, the contention of the petitioner is not opposed by the learned standing counsel for the Health Department. Therefore, it is not disputed by the State that the petitioners are serving as wage earners in AMCH, Dibrugarh in various capacities like Ward Boys, Chowkidar, Ayah, Peon and Female Sweeper, etc. and it is also not in dispute that the petitioners are being paid fixed pay of Rs.9000/- per month.

5. The learned counsel for the petitioners has referred to forwarding letter, bearing no. MCH/2021/2539 dated 02.12.2021 (Annexure-11) to project that the Superintendent of Assam Medical College and Hospital, Dibrugarh has already submitted a proposal to the Director of Medical Education, Assam to move the government for enhancement of the salary of 19 number of wage earners under the pay Band-I - Rs.12000-37500 + Grade Pay of Rs.3900/- along with the list of the 19 wage earners.

6. Accordingly, in view of the ratio laid down in the case of *Upen Das (supra)* and *Jadumoni Nath (supra)*, the Court is of the considered opinion that

the petitioners would be entitled to the benefit flowing out of those cases. Accordingly, the Court is inclined to dispose of this writ petition by giving liberty to the petitioners to submit individual representations to the Superintendent of Assam Medical College and Hospital, Dibrugarh with regard to their claim for payment of minimum scale of pay. Such representations shall be submitted within a period of 2(two) weeks and the Superintendent of Assam Medical College and Hospital, Dibrugarh shall forward the same to the Director of Medical Education, Assam so as to enable the concerned respondent authorities in the Directorate of Medical Education, Assam, the Finance (EC-II) Department and the Health and Family Welfare Department, Govt. of Assam to take an appropriate decision either on the said representations or in respect of the hereinbefore referred letter no. MCH/2021/2539 dated 02.12.2021 (Annexure-11) by the Superintendent of Assam Medical College and Hospital, Dibrugarh addressed to the Director of Medical Education, Assam within an outer period of 3(three) months from the date of submission of the certified copy of this order to the Superintendent of Assam Medical College and Hospital, Dibrugarh.

7. Accordingly, this writ petition stands allowed to the extent as indicated above.

8. There shall be no order as to cost.

JUDGE

Comparing Assistant