

GAHC010221902023



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

Case No. : WP(C)/6454/2023

HAFIZUL RAHMAN AND 9 ORS
S/O ABDUL AWAL HOQUE, R/O VILL-SATSIA KHAMAR, P.O.-KHALISA
BHITA, DIST-GOALPARA, ASSAM

2: AKRAM HUSSAIN
S/O AMIR HUSSAIN
R/O VILL AND P.O.-KOLSIRVITA
DIST-GOALPARA
ASSAM

3: MOZIBAR RAHMAN
S/O KAMAL UDDIN
R/O VILL AND P.O.-KOLSIRVITA
DIST-GOALPARA
ASSAM

4: MONOWAR HUSSAIN
S/O ABDUL HOQUE
R/O VILL-SAILDHORA
P.O.-TULSIBARI
DIST-GOALPARA
ASSAM

5: SHONSER ALI
S/O NABAB ALI
VILL-KULSABHANG
P.O.-CHANAN
DIST-GOALPARA
ASSAM

6: SANOWAR HUSSAIN
S/O AMIR ALI
VILL-SOPARIVITA
P.O.-TULSHIBARI

DIST-GOALPARA
ASSAM

7: MAZNU HOQUE
S/O SOYOD ALI
VILL-KULSABANGA
P.O.-CHUNARI
DIST-GOALPARA
ASSAM

8: IBRAHIM ALI
S/O SAGOR ALI
VILL-DIALDORA
P.O.-CHUNARI
DIST-GOALPARA
ASSAM

9: ASHRAFUL ISLAM
S/O SHER ALI
VILL-SUPARIVITA
P.O.-TULSIBARI
DIST-GOALPARA
ASSAM

10: WAHEDUR RAHMAN
S/O PASHAN UDDIN AHMED
VILL-BARBHITA
P.O.-KHANGRA
DIST-BARPETA
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-781006

2: THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

3: THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
PANJABARI
JURIPAR

GUWAHATI-37

4:THE JOINT DIRECTOR
OFFICE OF THE COMMISSIONERATE
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
PANJABARI
JURIPAR
GUWAHATI-781037

5:THE CHIEF EXECUTIVE OFFICER
GOALPARA ZILLA PARISHAD
P.O.-GOALPARA
DIST-GOALPARA
ASSA

Advocate for the Petitioner : MR S DAS

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

11.12.2023

Heard Mr. T. Dewan, learned counsel for the petitioners and Mr. N. K. Dev Nath, learned Standing Counsel appearing on behalf of the P&RD Department as well as Mr. R. Borpujari, learned Standing Counsel appearing on behalf of the Finance Department.

The learned counsel for the petitioners submits that the petitioners are appointed and working as LDA/Office Peon/Tax Collector on casual basis in different Gaon Panchayats under the jurisdiction of the respondent No. 4, prior to 01.09.2005. The petitioners' case is that even though they have been working as Casual Workers prior to 01.09.2005, their names are not included

in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list.

The petitioners' counsel submits that those persons, whose names are included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list, prepared by the Department on 01.01.2020, are entitled to the benefits of minimum regular scale of pay, in terms of the Judgment & Order dated 08.06.2017 passed by the Division Bench of this Court in W.A. No. 45/2014, "State of Assam & Ors. Vs. Sh. Upen Das & 836 Ors".

It is submitted on behalf of the petitioners that their names should be included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list prepared by the Department on 01.01.2020.

Mr. N. K. Dev Nath, learned counsel appearing on behalf of the P&RD Department submits that the respondent authorities would have to verify all the appointment orders of the petitioners and also take the approval of the Finance Department for inclusion of their names in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list, provided they survive the scrutiny.

On considering the fact that the present issue involves disputed questions of fact, this Court is of the view that the matter should be decided by the respondent authorities. Accordingly, the petitioners are given the liberty to file individual representations, annexing their appointment orders, within a period of 2 (two) weeks from today. The representations should be addressed to the respondent No. 3, who shall thereafter examine the petitioners' representations and take a decision on the same, as to whether the petitioners can be included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list prepared by the Department on 01.01.2020. 7

The entire exercise should be carried out within a period of 6 (six) months from the date of receipt of a certified copy of this order along with the individual representations submitted by the petitioners.

The writ petition is accordingly disposed of

JUDGE

Comparing Assistant