

GAHC010225142014



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

Case No. : WP(C)/1719/2014

ASSAM STATE WEAVING and MANUFACTURING CO. LTD.EMPLOYEE'S
UNION
KATIMARI PATHAR, P.O. HERAPATTY, DIST- NAGAON, REPRESENTED BY
THE GENERAL SECRETARY

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
INDUSTRIES DEPARTMENT
DISPUR
GUWAHATI

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PUBLIC ENTERPRISES DEPARTMENT
DISPUR
GHY.

4:ASSAM INDUSTRIES DEVELOPMENT CORPORATION
R.G. BARUAR ROAD
GUWAHATI
REPRESENTED BY THE MANAGING DIRECTOR

5:THE MANAGING DIRECTOR
ASSAM INDUSTRIES DEVELOPMENT CORPORATION
R.G. BARUAR ROAD
GUWAHAT

Advocate for the Petitioner : MR.G UZIR

Advocate for the Respondent : A. KALITA, SC, INDUSTRIES

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

11.05.2023

Heard Mr. M. Saikia, the learned counsel for the petitioner and Mr. A. Chakraborty, the learned counsel appearing on behalf of the respondent No.1. Also heard Mr. A. Kalita, the learned counsel appearing on behalf of the respondent Nos.2 & 3 as well as Mr. J. Barman, the learned counsel appearing on behalf of the respondent Nos.4 & 5.

2. The instant writ petition has been filed by a Trade Union in the name and style of Assam State Weaving & Manufacturing Co. Ltd. thereby claiming House Rent Allowance, Medical Allowance and Ex-gratia for 30 days in terms with the scheme prepared by the Government of India for VRS in the year 1988 and also in terms with the judgment and order dated 03.01.2014 delivered in WP(C) No.4355/2010.

3. It has been brought to the attention of this Court that recently on 05.01.2023, this Court vide the judgment and order dated 05.01.2023 in the case of ***Asom Rajyik Bastra Nigam Karmachari Santha & Another vs. the State of Assam & 4 Others*** (WP(C) No.2633/2014) disposed of the said writ petition directing the respondents to pay the members of the petitioners' association therein after making necessary verification, the House Rent Allowance as well as the Medical Allowance as a part of their salary to which they would be entitled to in terms with the notification dated

15.02.2006. Paragraph Nos. 15, 16 & 19 being relevant are quoted herein under:-

“15. I have heard the learned counsels for the parties and have also perused the materials on record. Let this Court first take into consideration as regards the entitlement of the members of the petitioners’ association in respect to the House Rent Allowance and Medical Allowance. The learned Standing counsel for the respondent No.5 had categorically stated that the petitioners cannot claim House Rent Allowance and Medical Allowance taking into account that they have duly accepted the said amount so paid without any demur or objection. In other words, it is the submission of the learned Standing counsel for the respondent No.5 that on the principles of estoppels, the petitioners now cannot agitate nonpayment of the House Rent Allowance and Medical Allowance.

16. The Co-ordinate Bench as well as the Division Bench in its judgments dated 03.01.2014 as well as 06.05.2015 respectively had categorically held that the terms of the VRS in respect to the notification dated 15.02.2006 which is also the same notification herein shall include within the term House Rent Allowance, Medical Allowance and the City Compensatory Allowance. On the ground that the petitioners have accepted the amount which have been paid without any protest and to disentitle them for that in the opinion of this Court would not be proper. Under such circumstances, this Court therefore is of the opinion that the members of the petitioners’ association are entitled to the House Rent Allowances as well as the Medical Allowances in computing their salary including the arrear salary.

19. In that view of the matter, this Court therefore disposes of the instant writ petition with a direction upon the respondent Nos. 1, 2 and 5 to pay the members of the petitioners’ association after making necessary verification, the House Rent Allowance as well as the Medical Allowance as a part of their salary to which they are entitled to in terms with the notification dated 15.02.2006.

The said exercise be carried out within a period of 3 (three) months from the date of a certified copy of this order is served upon respondent No.2 and 5.”

4. Taking into account the above and the scheme involved is the same, this Court maintaining the parity, disposes of the instant writ petition thereby directing the respondent Nos.1, 2 & 4 to pay the members of the petitioner Union herein after making necessary verification, the House Rent Allowance as well as the Medical Allowance as a part of their salary to which they are entitled to in terms with the notification dated 15.02.2006. The said exercise be carried out within a period of 3 (three) months from the date a certified copy of the instant order is served upon the respondent Nos.2 & 4.

5. With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant