

GAHC010234672013



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

Case No. : WP(C)/4938/2013

AMAL KANTI BARUAH and 33 ORS.
S/O LT. BIMAL CH. BARUAH

2: SRI PRASANTA BORDOLOI
S/OLT. NAGEN BORDOLOI

3: SRI NITUL DUTTA
S/O LT. BABULAL DUTTA

4: SRI MANJULA DAS
D/O LT. NIBARAN CH. DAS

5: SRI MUKUT BURAGOHAIN
S/OLT. RATNESWAR BURAGOHAIN

6: SRI NRIPEN MAHANTA
S/O LT. BAP CH. MAHANTA

7: SRI CHIDANGA BORUAH
S/O S.P. BORUAH

8: SRI GAUTOM KR. CHANGMAI
S/O LT. UMESH CH. CHAMGMAI

9: SRI HEM CH. MAHANTA
S/O SRI DAMBARUDHAR MAHANTA

10: SMTI. RANJUMONI ACHARYA
S/O LT. LUHIT CH. GOSWAMI

11: MD. TASSADDUK ALI
S/O LT. TAYEB ALI

12: SRI TARUN GOGOI

S/O LT. SURENDRA NATH GOGOI

13: SRI ARIJIT BHATTACHARYEE
S/O LT. A SHIWINI KR. BHATTACHYEE

14: SRI SHREEKANTA PADDAR
S/O LT. SARYUG PADDAR

15: SRI MINTU KR. HALOI
S/O SRI KALYAN CH. HALOI

16: SRI ARUN SONOWAL
S/O LT. MADAN CH. SANOWAL

17: SRI DHRUBA JYOTI BARUAH
S/O SRI GIRIN BARUAH

18: MISS ASIFA SULTANA
D/O LT. DERAB ALI

19: SRI MOHAN KRISHNA BURAGOHAIN
S/O SRI BIJOY KRISHNA BURAGOHAIN

20: SRI PRAFULLA GOGOI
S/O LT. KONAK CH. GOGOI

21: SRI SUBHSSH PAUL
S/O SRI SUKHAMOY PAUL

22: SMTI. BABY BORDOLOI MAHANTA
D/O LT. SIBEN BORDALOI

23: SRI BIREN KR. GOGOI
S/O SATYENDRA NATH GOGOI

24: SRI DIBAKAR NATH
S/OLT. DILIP KR. NATH

25: SRI ANIL CHETIA
S/OLT. CHANDRA KANTA CHETIA

26: SRI PRAKASH BORDOLOI
S/O LT. NANDESWAR BORDOLOI

27: SRI PRABIN RAJKHOWA
S/O SRI AMBESWAR RAJKHOWA

28: DEVOJIT NEOG

S/OLT. TILSWAR NEOG P.O. TAZALI DIST. LOWER SUBANSIRI PIN- 791119

29: BISWAJIT SINGHA
S/O SATYAJIT SINGHA

30: R.K. RAWAT
S/O LT. KHEM SINGH B. SINGH RAWAT

31: V. KRISHNAMURTY SINGHA
S/O KRISHNAKANTA SINHA

32: KAMAL HAIDAR
S/O ABDUL MOZID SIRKE

33: MRS. JAYA BORTHAKUR
W/O DILIP KR. SHARMA ALL ARE RESIDIN AT NEEPCO
AGPP
BOKULONI PIN- 70691
P.S. BHADOI PANCHALI
DIST. DIBRUGARH
EXCEPT PETITIONER NO. ... NEPCO BHAWAN
GUWAHATI-5
KAMRUP

VERSUS

THE UNION OF INDIA and 2 ORS
REP. BY THE SECRETARY GOVT. OF INDIA, MINISTRY OF POWER,
SHARAM SHAKTI BHAWAN, RAFI MARG, NEW DELHI-1.

2:THE CHAIRMAN AND MANAGING DIRECTOR
NEEPCO LT.D
BOOKLAND COMPOUND LOWER NEW COLOPNY
SHILLONG-3.

3:THE DEPUTY MANAGER
ADMN AGBP
NEEPCO LTD. BOKLULONI
DIBRUGARH
ASSAM- 786191.

4:DEPARTMENT OF PUBLIC ENTERPRISE
REPRESENTED BY PRINCIPAL SECRETARY
DEPARTMENT OF PUBLIC ENTERPRISE UNDER MINISTRY OF HEAVY
INDUSTRY AND PUBLIC ENTERPRISE
GOVERNMENT OF INDIA
NEW DELHI.

5:MINISTRY OF FINANCE
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVERNMENT OF
INDIA
MINISTRY OF FINANCE
NEW DELHI

Advocate for the Petitioner : MR. P K GOSWAMI

Advocate for the Respondent : MR. H GOGOI

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

29-08-2023

Heard Mr. B. P. Borah, learned counsel for the petitioners and Ms. R. Devi, learned Central Government Counsel for the respondent Nos. 1, 4 & 5. Also heard Ms. S. Todi, learned Standing counsel, NEEPCO for the respondent Nos. 2 & 3.

2. Notice in this case was issued on 30.08.2013.

3. By order dated 23.05.2016, the Department of Public Enterprise represented by the Principal Secretary, Department of Public Enterprise, Ministry of Heavy Industry and Public Enterprise, Government of India, New Delhi and the Ministry of Finance represented by the Principal Secretary to the Government of India, Ministry of Finance, New Delhi were impleaded as party respondent Nos. 4 & 5, respectively, in this writ petition.

4. The petitioners 33 in numbers herein are the executive employees of the North Eastern Electric Power Corporation Limited (NEEPCO, in short). But from the cause title of this petition, it is seen that after Sl. No. 27 of the petitioners, the name at Sl. No. 28 was dropped and again it started from Sl. No. 29 to Sl. No. 34.

5. Mr. Borah, learned counsel for the petitioners submits that for the last 5 years, the petitioners did not contact him and as such, he does not have any up-to-date information regarding the claim of the petitioners made in this petition.

6. As per the promotion policy of the respondent NEEPCO, the Supervisor Category is divided into

three categories, i.e., 'S1', 'S2' and 'S3', whereas the Executive Cadre is divided into nine posts, i.e., 'E1' to 'E9'. In the respondent NEEPCO, 'S' cadre is the feeder cadre to the 'E' cadre category.

7. As per the revised pay scale, fixed vide order dated 01.01.1997, the scale of pay of the feeder cadre category, i.e., of 'S1', 'S2' and 'S3' were found to be higher than the promotional posts of 'E1', 'E2' and 'E2A' etc.

8. The respondent NEEPCO in its next pay revision dated 01.01.2007 revised the Grade Pay Scales of various categories w.e.f. 01.01.2007 and it maintained the pay scale parity of junior and senior employees, however, the anomaly with regard to the pay scales of 'E1' to 'E2A' made during 1997 revision remain undecided.

9. Though the petitioners filed their several representations before the authorities concerned, the respondents in the NEEPCO did not consider the same. As such, the petitioners with the issues – (i) whether the action of the respondent authorities are arbitrary, illegal and discriminatory, (ii) whether a promotional post can carry a scale lower than the feeder cadre and (iii) whether the employees of a Government undertaking co-operation can be discriminated in the matter of pay scale vis-à-vis the employees of the other corporation, preferred this writ petition on 27.08.2013 praying amongst others for a direction to the respondent authorities in the NEEPCO to modify/rectify the fixation of the revised scale of pay of the employees of Grade – 'E1' to 'E2A' that is lower than the scale of pay of the employees of categories 'S1' and 'S3' under the 1997 revised scale of pay and to re-fix the scale of pay of the petitioners under the 2007 revised scale of pay.

10. The respondents in the Department of Public Enterprises on 14.01.1999 by an Office Memorandum issued the guidelines for the Sixth Round of Wage Negotiations in Public Sector Enterprises w.e.f. 01.01.1997 which inter alia stated that it has to be ensured that the negotiated wages would not come in conflict with the wages revision of officers and non-unionised supervisors of Public Enterprise. Further, the Department of Public Enterprise, Ministry of Heavy Industries and Public Enterprises issued guidelines of revision of pay and other pay related matters and implementation of the same stating that its rise would be made by the administrative department of the Ministry of CPSE concerned.

11. To sort out the pay anomaly of its employees, the respondent NEEPCO by order dated 17.01.2017 constituted one committee following the specification of the Department of Public Enterprises and as per the recommendation of the said committee, the anomaly cases of the

petitioner Nos. 1, 2, 3, 4 , 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 22, 24, 25, 30, 31, 32, 33 and 34 have already been settled.

12. With regard to the petitioner Nos. 5, 16, 21, 26, 27 and 29 are concerned, the committee constituted by the respondent NEEPCO on 17.01.2017, could not pass any order pertaining to them as they did not apply for stepping up of their pay scales, like their counter parts of other petitioners, noted above.

13. With regard to the petitioner No. 15, the said committee constituted on 17.01.2017 did not consider his case as he had already availed the benefits of stepping up of benefits w.e.f. 20.06.1989.

14. Similarly, with regard to stepping up of the petitioner No. 23 was also not considered as he had applied for stepping up of his pay scale with reference to his senior employees.

15. The petitioners did not confront with the additional affidavit-in-opposition filed by the NEEPCO on 12.03.2018, which accordingly proved that the claims of the petitioners made herein have been taken care of by the respondent NEEPCO through its constituted committee on 17.01.2017 as noted above and that the petitioners are no longer aggrieved.

16. Since the respondent authorities in the NEEPCO have already considered the cases of the petitioners as noted above and removed the anomalies with regard to their pay scales in terms of the additional affidavit of the respondent NEEPCO filed on 12.03.2018, the petitioners had already got their relief, as prayed for in this petition.

17. Accordingly, this writ petition with the above observation stands disposed of.

JUDGE

Comparing Assistant