

GAHC010245212023



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

Case No. : I.A.(Civil)/3238/2023

NAZRUL HAQUE LASKAR AND ANR.
S/O- LT ABDUL KARIM LASKAR, R/O- BOALIPAR PART-III, P.O. BOALIPAR
BAZAR, P.S. AND DIST- HAILAKANDI, ASSAM

2: ABUL HUSSAIN LASKAR
S/O- LT ALAUDDIN LASKAR
R/O- VILL- ALGAPUR
PART-I
P.O. KALIBARI BAZAR
P.S. ALGAPUR
DIST- HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS.
TO BE REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM, FINANCE DEPARTMENT, DISPUR, GHY-6

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
DISPUR
GHY-6

3:THE DIRECTOR
PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
JURIPAR
PANJABARI
GHY-37

4:THE CHIEF EXECUTIVE OFFICER
HAILAKANDI ZILLA PARISHAD
P.O.
P.S. AND DIST.- HAILAKANDI

ASSA

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : SC, FINANCE DEPTT.

Linked Case : WP(C)/5540/2019

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ASSAM

Advocate for : MR. M H LASKAR

Advocate for : SC

FINANCE DEPTT. appearing for THE STATE OF ASSAM AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

20.11.2023

Heard Mr. M.H. Laskar, learned counsel for the applicant. Also heard Mr. N.K. Dev Nath, learned Standing Counsel, P&RD.

2. This interlocutory application has been filed seeking correction in the order dated 13.10.2023 passed in W.P(C) No. 5540/2019. By the said order, the writ petition was disposed of on the stand of the Government reflected in the Notification dated 09.09.2021 which was signed on 16.09.2021 whereby Muster Roll Workers/Casual Workers/ Fixed Pay and similarly placed workers who were appointed both under Pre AFRBM period and post AFRBM period were required to be extended the benefit of payment of minimum pay-scale to Muster Roll/Casual Fixed Pay workers in pursuance to the Hon'ble Court's order dated 08.06.2017 passed in W.A. No. 45/2014. On the basis of this Notification, the writ petition stood disposed of with a direction to the respondent Department to pass orders in terms of order dated 08.06.2017 passed in W.A. No. 45/2014 within a period of 60 days from the date of receipt of this copy of the order.

3. It is submitted by the learned counsel for the applicant that in the 3rd Paragraph of internal page 3 of the order dated 13.10.2023 while referring to the Notification dated 09.09.2021 (signed on 16.09.2021) it was held that the

decision was taken that all Muster Roll Workers prior to AFRBM period will be granted minimum scale of pay. This view as reflected in the order is contrary to the position which is seen in the Notification dated 09.09.2021 (Signed on 16.09.2021).

4. Mr. N.K. Dev Nath and Mr A. Chaliha, learned counsels appearing for the respondents do not opposed to the prayer made.

5. Accordingly, this I.A. Stands disposed of. The order dated 13.10.2023 passed in W.P.(C) No. 5540/2019 stands corrected to the extent that by Notification dated 09.09.2021 (Signed on 16.09.2021) Government recalled its earlier decision for grant of minimum scale of pay only to the Muster Roll Workers who are appointed prior to AFRBM period and decided that all Muster Roll Workers appointed both prior and post AFRBM period will be granted minimum scale of pay in terms of the order dated 08.06.2017 passed in W.A. No. 45/2014. For connivance the Notification dated 09.09.2021 (Signed on 16.09.2021) is also extracted below:

“GOVERNMENT OF ASSAM

FINANCE (EC-II) DEPARTMENT

DISPUR, GUWAHATI-781006

FEC(II) 80/2018/156

Dated Dispur, the September, 2021

From: Manish Thakur, IAS

Commissioner & Secretary to the Govt. of Assam,

Finance Department

To: The Commissioner & Secretary/Secretary to the Govt. of Assam.

.....Department

Ref: Notification No. FEC(II) 04/2014/414, dated 3.10.2019 (Flag-D)

Sub: Payment of minimum pay scale to the Muster Roll/Work Charged/Casual and similarly placed workers who were appointed prior to AFRBM period/post AFRBM period in pursuance of Hon'ble Court's order dated 8.6.2017 in W.A.

No. 45/2014 (State of Assam –Vs- Upen Das & Ors.)

Sir,

In inviting a reference to the letter on the subject cited above, I am directed to forward herewith the list of Muster Roll/Casual/Fixed Pay and similarly placed workers who were appointed under Pre AFRBM period/post AFRBM period received from your department since approved and duly authenticated by the Finance Department to extend the benefits of payment of minimum pay scale to the Muster Roll/Casual/Fixed pay etc. workers in pursuance of Hon'ble Court's order dated 8.6.2017 in WA 45/2014 (State of Assam-Vs-Upen Das & Ors).

The Administrative Departments are requested to strictly follow the guidelines indicated below:

- 1. The posts are personal to respective Muster Roll/Casual/Fixed pay and similarly placed workers and will be abolished as soon as the incumbents relinquish the posts in any manner*
- 2. The ban on fresh engagement of Muster Roll/Work Charged/Casual and similarly nature workers with effect from 01.04.1993 shall continue. Any deviation of this shall be dealt with seriously under the relevant provisions of the Assam Fiscal Responsibility and Budget Management Act. 2005.*
- 3 Administrative Departments will ensure that no new Muster Roll. Casual, etc. workers are engaged against the expired/ retired / relinquished workers contained in the approved list of Finance Department. Departments shall annually intimate concerned control branch of Finance Department of the retired/expired etc workers to Finance Department.*
- 4. The Departments will consult Finance (Budget) Department for necessary requirement of fund against the approved list of Finance Department.*
- 5. The concerned Administrative Department will issue order on the basis of approved list of Finance Department and invariably forward the copy of the*

same to the concerned Treasury Officer.

6 The Departments are requested to create unique identity against each of the Muster Roll/Work Charged and similarly placed workers who have been granted minimum of pay scale to come under the purview of CTMIS to avoid duplicity and for enabling striking of their names as and when they attain superannuation.

7 This list will be treated as final list approved by the Finance Department Henceforth, no new proposal submitted by any administrative department for grant of Minimum of Pay scale to the Muster Roll/Work Charged/Casual and similarly placed workers who were appointed prior to AFRBM period/post AFRBM period in pursuance of Hon'ble Court's order dated 86 2017 in WA 45/2014 (State of Assam-Vs. Upen Das & Ors) will be considered by Finance Department.

*(Manish Thakur, IAS)
Commissioner & Secretary to the Govt. of Assam,
Finance Department"*

6. This order shall be read together with the order dated 13.10.2023 passed in W.P(C) No. 5540/2019. The direction contained in the order dated 13.10.2023 passed in WP(C) No. 5540/2019 will now be complied within a further period of 60 days from the date of receipt of certified copy of this order.

JUDGE

Comparing Assistant