

GAHC010247312023



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

Case No. : WP(C)/6880/2023

KULJIT DEKA AND 16 ORS
S/O DHIRESWAR DEKA
RESIDENT OF VILLAGE AND PO NAGAON, DIST BARPETA, ASSAM

2: MD. RAFIKUL ISLAM

S/O GIAS UDDIN

R/O
VILLAGE- MARICHA

P/O-KAYAKUCHI

DISTRICT- BARPETA
ASSAM.

3: IMRANUL ISLAM
S/O EUNUS ALI

R/O. VILL AND P.O
GUNIALGURI

DISTRICT- BARPETA
ASSAM

4: SHAHJAMAL SARKAR
S/O-ABUL KASHEM SARKAR
R/O- VILL- BOGULAMARI
P.O. LANGLA

DIST- BARPETA
ASSAM.

5: SHAFIQUL ISLAM DEWAN
S/O- RAHIZ UDDIN DEWAN

R/O- VILL- GANAKPARA

P.O. MAKRIKUCHI

DIST- BARPETA
ASSAM.

6: MANJUWARA KHATUN
W/O MUNTAZ ALI

RESIDENT OF VILLAGE HELENARPAM
PO HOWLI
DIST BARPETA
ASSAM

7: SULEMAN HUSSAIN
S/O ABDUL WAHAB ALI

RESIDENT OF VILLAGE FULBARI
PO GUMAFULBARI
DIST BARPETA
ASSAM

8: HASINA PARBIN
D/O JUBBAR ALI

RESIDENT OF VILLAGE DOPALPARA
PO MAJGAON
DIST BARPETA
ASSAM

9: RUKIYA KHATUN
D/O RAFIQUL ISLAM

RESIDENT OF VILLAGE CHANMAMA
PO BARVITA
DIST BARPETA
ASSAM

10: FAJILUR RAHMAN
S/O-ELAHI MANDAL

R/O VILL- DOPALPARA
P.O
MAYGAON

DIST- BARPETA
ASSAM

11: SULTANA AHMED
S/O- SOLEMAN ALI

R/O- VILL AND P.O
BALAGAON

DIST- BARPETA
ASSAM

12: JULHASH SIKDAR
S/O- MD. SAHAB ALL

R/O-VIL-BILORTARI
P.O. KALGACHIA

DIST- BARPETA
ASSAM

13: ABDUL LATIF
S/O-EASIN ALI

R/O-VIL- DOPALPARA
P.O. MAJGAON

DIST- BARPETA
ASSAM.

14: AMINUR RAHMAN
S/O- TAJLIBUR RAHMAN
R/O- VILL- BALARTARI
P.O. CHENIMARI

DIST- BARPETA
ASSAM.

15: HAFIZUR RAHMAN
S/O- SOLAIMAN ALI

R/O-VILL- RAMPUR
P.O. BANGUGI

DIST- BARPETA
ASSAM.

16: MUSTAFIZUR RAHMAN
S/O-SOLAIMAN ALI

R/O-VILL- RAMPUR
P.O. BANGUGI

DIST- BARPETA
ASSAM.

17: A. BATEN MANDAL
S/O- EASIN ALI

R/O-VILL- DOPALPARA
P.O. MAJGAON

DIST- BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH
THE
THE PRINCIPAL SECRETARY, TO THE
GOVERNMENT 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
ASSAM

PANJABARI

DEPARTMENT

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

BARPETA ZILLA PARISHAD
POST OFFICE-
BARPETA
DISTRICT- BARPETA
ASSAM

Advocate for the Petitioner : MS. J GHOSH

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

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

01.12.2023

Heard Mr. R. Majumdar, learned counsel for the petitioners. Also heard Mr. P. Handique, learned Standing Counsel, P&RD Department.

2. 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.

3. 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".

4. 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.

5. Mr. P. Handique, learned counsel appearing for the respondent Nos. 1, 3, 4 & 5 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.

6. 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.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant