

GAHC010255402013



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

Case No. : WP(C)/569/2013

TULAN BORTHAKUR and 12 ORS.
S/O JUGEN BORTHAKUR, VILL.JYOTINAGAR, P.O. BARIK SUBURI,
P.S.TEZPUR, DIST. SONITPUR, ASSAM.

2: BIJULI TAMULY
C/O SRI BHUPEN BORA
VILL. and P.O. JATIYA
P.S. DISPUR
DIST. KAMRUP

3: SAHA JAHAN PARAMANIK
S/O AJIJUR RAHMAN
NAGAON 782001

4: PURNA KANTA SARMAH

S/SOLT. SUCHAR CH. SARMAH
VILL. HALDHEBARI
P.O.DAMDUA
MORIGAON 782104

5: AKHIL CH. BARMAN

S/O SRI GANESH BARMAN
VILL. CHAKBOUSHI
DIST. BARPETA 781317

6: MD.HUSSAIN ALI

S/O LT. AKKEL ALI
VILL.BHAKUATEPA P.O. RAULI
P.S.SARTHEBARI
DIST. BARPETA
781309

7: SMT. JOSHNA DAS

W/O SRI KHANINDRA THAKURIA
VILL. P.O. PATBOUSHI
P.S.BARPETA 781301

8: NRIPEN KALITA

S/O LT. PRAFULLA RAM KALITA
VILL.GHARPURA CHUBURI
P.O. and P.S.TEZPUR
DIST. SONITPUR
784001

9: SATYA RAM DAS

S/O LT.KRISHNA KANTA DAS
VIL. CHOUTARA
P.O. BHULUKADOBA
P.S. SORBHOG
DIST. BARPETA 781317

10: SMT. ASHALA DEKA

D/O LT.KANAK CH.DEKA
VILL. CHUTIAPARA
P.O. BHELLA
P.S.BARPETA

11: NURUDDIN AHMED

S/O LT.MAINUDDIN AHMED
VILL. 2 NO. BHELKAR
P.O. BHELKAR BAZAR
P.S. HAJO
DIST.KAMRUP 781102

12: MD. TAMIJUDDIN AHMED

S/O LT. NAYAB ALI
VILL.NO. 2 SOLMARI
P.O. BHELKAR BAZAR
P.S. HAJO
DIST. KAMRUP 781102

13: SMT. SABITA DAS

D/O JATINDRA NATH DAS

VILL. and P.S. GANAK KUCHI
P.S. BARPETA
BARPETA

VERSUS

STATE OF ASSAM and 4 ORS.
REPRESENTED BY THE SECY. TO THE GOVT.OF ASSAM, HANDLOOM AND
TEXTILES DEPTT., DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECY. TO THE GOVT OF ASSAM

FINANCE.

3:THE DIRECTOR

HANDLOOM AND TEXTILES AMBARI
GUWAHATI-1

4:THE REGISTRAR

DIRECTORATE OF HANDLOOM AND TEXTILES
ASSAM
GUWAHATI-5

5:THE FINANCE AND ACCOUNTS OFFICER

DIRECTORATE OF HANDLOOM AND TEXTILES
ASSA
GUWAHATI-

Advocate for the Petitioner : MR.A C BORBORA

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 22/09/2023

Heard Mr. M. Smith, learned counsel for the petitioners. Also heard Mr. R. Dhar, learned Additional Senior Government Advocate appears for respondents.

2. The claim of the writ petitioners is for a direction to regularize their services which they have been rendering as a Muster Roll Workers since their

date of appointment in the office of the Directorate of Handloom and Textile Department. In spite of rendering continuous service without any blame or blemish, the case of the petitioners have not been considered for regularization.

3. The respondent Nos. 1 and 3 has filed their affidavit contesting the claims of the petitioners. According to the respondents in terms of the Government Office Memorandum No. FEC(II)49/2010/118, dated 16.06.2012 the following resolutions were taken:-

“(1) No more regularization of services of Worked Charged, Muster Roll or similarly placed workers can be undertaken by the state Government even if such workers were engaged prior to 01-04-1993 and rendered continuous service without break.

(2) No more regularization can be undertaken by supernumerary post for one day in respect of those work charged and Muster Roll workers who were engaged prior to 01-04-1993 but died or attained the age of superannuation after rendering continuous services uninterruptedly”.

4. Mr. M. Smith, learned counsel for the petitioners submits that in the meantime, a Division Bench of this court had rendered a Judgment dated 8th June, 2017 passed in *W.A. 45/2014* rendered in the case of *State of Assam -vs- Upen Das and Others*.

5. Mr. M. Smith, learned counsel for the petitioners submits that the petitioner is also entitled to the benefits granted by this Court in *Upen Das (Supra)*. Paragraph 22 of the Judgment of *Upen Das (Supra)* is reads as under:-

“ It is, however, heartening to learn that the State Government has agreed not to terminate the Muster Roll, Work Charged and similarly placed employees working since last more than 10 years (not in sanctioned post) till their normal retirement, except on disciplinary ground or on ground of criminal offences. The State Government has also agreed to enlist such employees in Health and Accidental and

Death Insurance Scheme, which will be prepared in consultation with the State Cabinet. We appreciate this positive stand of the State Government taken as welfare measures for the betterment and security of the employees, in question. We, accordingly, direct the State Government to implement the measures without further delay. Besides this, we, in the light of decision of the Supreme Court in State of Punjab vs. Jagjit Singh, (2017) 1 SCC 148, also direct the State Government to pay minimum of the pay scale to Muster Roll workers, Work Charged workers and similarly placed employees working since last more than 10 years (not in sanctioned post) with effect from 1.8.2017."

6. Mr. R. Dhar, learned Additional Senior Government Advocate appearing for the respondents does not object to the prayer made.

7. In that view of the matter, this Court is of the view that since the reliefs sought for similar and since the petitioners are also Muster Roll Workers, the writ petition can be closed, directing the respondents to carry out the directions in terms of the Judgment and Order passed in *W.A. 45/2014* rendered in the case of *State of Assam -vs- Upen Das and Others*.

8. It is, however, made clear that before any orders are passed in terms of the directions contained in *Upen Das (Supra)*, the respondent authorities are entitled to carry out a proper verification to find out if the petitioners are still entitled to the claims as prayed for.

9. In the event, they are entitled the benefits as conferred in terms of the directions contained in *Upen Das (Supra)*. Accordingly, the writ petition stands disposed of in terms of the above.

10. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant