

GAHC010264082023



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

Case No. : WP(C)/6910/2023

ABU BAKKAR SIDDIQUE
S/O NUR ISLAM, A R/O VILL- BARCHAPORI, P.O.-MOIRABARI, P.S.-
MOIRABARI, DIST-MORIGAON (ASSAM), WORKING AS TAX COLLECTOR
IN THE OFFICE OF THE BARCHAPORI G.P. UNDER MOIRABARI
DEVELOPMENT BLOCK

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT
DEPARTMENT, DISPUR, GUWAHATI-06

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
JURIPAR
GUWAHATI-37

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06

4:THE JOINT DIRECTOR
OFFICE OF THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
JURIPAR

GUWAHATI-37

5:THE CHIEF EXECUTIVE OFFICER
MORIGAON ZILLA PARISHAD
P.O.
P.S. AND DIST- MORIGAON
ASSAM
PIN-782105

6:THE EXECUTIVE OFFICER
MOIRABARI ANCHALIK PANCHAYAT
-CUM- BLOCK DEVELOPMENT OFFICER
MOIRABARI DEVELOPMENT BLOCK
P.O.-MOIRABARI
ASSAM

7:THE BORCHAPORI GAON PANCHAYAT
TO BE REPRESENTED BY THE SECRETARY OF THE SAID GAON
PANCHAYAT
VILL-BORCHAPORI
P.O. AND P.S.-MOIRABARI
DIST-MORIGAON
ASSA

Advocate for the Petitioner : MR. M A I HUSSAIN

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

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

01.12.2023

Heard Mr. M.A.I Hussain, learned counsel for the petitioner. Also heard Mr. P. Handique, learned Standing Counsel, P&RD Department.

2. The learned counsel for the petitioner submits that the petitioner is appointed and working as Tax Collector on casual basis in the Gaon Panchayat under the jurisdiction of the respondent No. 7, prior to 01.09.2005. The petitioner's case is that even though he has been working as Casual Workers

prior to 01.09.2005, his name is not included in the Pre Assam Fiscal Responsibilities Budget Management (AFRBM) list.

3. The petitioner's 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 petitioner that his name 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, 2, 4 & 5 submits that the respondent authorities would have to verify the appointment order of the petitioner 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. Upon consideration of the rival submissions, it is seen 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 petitioner is given the liberty to file individual representation, annexing his appointment order, within a period of 2 (two) weeks from today. The representations should be addressed to the respondent No. 3, who shall thereafter examine the petitioner's representations and take a decision on the same, as to whether the petitioner 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 representation submitted by the petitioner.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant