

GAHC010010702019



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

Case No. : WP(C)/350/2019

ANAL KR. GOGOI AND 14 ORS.
S/O. LT. BHABA KT. GOGOI, R/O. KAMALABARI GAON, JAIL ROAD, P.O.
BORBHETA, DIST. JORHAT, ASSAM-785004.

2: KANAKLATA DUTTA

R/O. KAMAR HAZIKA GAON
P.O. KARANGA
DIST. JORHAT
ASSAM-785008.

3: DIBYA JYOTI BORDOLOI

S/O. ASHOK BORDOLOI
R/O. D.C.B. ROAD
JORHAT
P.O. JORHAT
DIST. JORHAT
ASSAM-785001.

4: MRS. ANITA GOGOI BORA

W/O. ARUP JYOTI BORA
R/O. HOLIA GAON
P.O. CHALIHA
DIST. JORHAT
ASSAM-785004.

5: MRS. POLLOBI BORA

S/O. PANNA PROTIM BORA
R/O. RINGDOI BRAHMIN GAON
P.O. RONGDOI
DIST. JORHAT

ASSAM-785001.

6: BISHWAJIT BORA

S/O. SRI DIMBESWAR BORA
R/O. K.B. ROAD
NOWSOLIA GAON
P.O. BORBHETA
DIST. JORHAT
ASSAM-785004.

7: MIHIR DEURI

S/O. AMAL SING DEURI
R/O. BORDEURI
P.O. NARAYANPUR
DIST. JORHAT
ASSAM-785164.

8: MRS. MOMI RAJAK

W/O. RANJAN SARMA
R/O. NABAGRAH MANDIR
JAIL ROAD
P.O. BORBHETA
DIST. JORHAT
ASSAM-785004.

9: MRS. RANJU MONI BORA

W/O. MR. ANIL BORAH
R/O. NO.2 BAMUN GAON
P.O. CHEAGELI GAON
DIST. JORHAT
ASSAM-785010.

10: RAJ KAMAL KACHARI

S/O. LT. BALUBHADRA KACHARI
R/O. SURABHI NAGAR
P.O. TITABOR
DIST. JORHAT
ASSAM-785630.

11: SABITA RAJKHOWA

C/O. U.K. RAJKHOWA
R/O. KAMALABARI

BLOCK COLONY
DIST. MAJULI
ASSAM-785106.

12: JITU KR. PHUKAN

S/O. LT. CHANDRA PHUKON
R/O. SAMAGURI CHARIALI
P.O. KACHNKHAT
DIST. JORHAT
ASSAM-785633.

13: MS. JIHOM SHYAM

D/O. BHABAKANTA SHYAM
R/O. POTHAR SHYAM GAON
P.O. DEOGHARIA
DIST. JORHAT
ASSAM-785630.

14: KABITA BARUAH

S/O. SRI DIMBESWAR BORA
R/O. K.B. ROAD
NOWSOLIA GAON
P.O. BORBHETA
DIST. JORHAT
ASSAM-785004.

15: MR. TARUN DAS

S/O. LT. LILESWAR DAS
R/O. VILL. MOUPUPURIA
P.O. DHULIAPAR
DIST. JORHAT
ASSAM-785004

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HEALTH AND FAMILY WELFARE DEPTT., DISPUR, GUWAHATI-06.

2: COMMISSIONER AND SECRETARY
TO THE DEPTT. OF FINANCE
GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

3:THE PRINCIPAL CUM CHIEF SUPERINTENDENT

JORHAT MEDICAL COLLEGE AND HOSPITAL
JORHAT

Advocate for the Petitioner : MR. T J MAHANTA, MR D MAHANTA,MS. P BHATTACHARYA

Advocate for the Respondent : SC, HEALTH, SC, FINANCE

BEFORE

HON'BLE MR. JUSTICE KARDAK ETE

O R D E R

30.08.2024

Heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Ms. P. Sharma, learned counsel for the petitioners. Also heard Ms. D. Bora, learned Standing Counsel, Health Department for the respondent no.3 and Mr. P. Nayak, learned Standing Counsel, Finance Department for the respondent no. 2.

2. By filing this writ petition, the petitioners have prayed for a direction to the respondent authorities to grant the Grade Pay as per the Assam Stenographers Service Rules, 1995 (Grade Pay for Stenographer Gr.-III).

3. The petitioners who are graduate in different subjects and the holder of computer programme application with certificate of stenography were appointed as Stenographer Grade-III, pursuant to the advertisement No. SMEJ/JMC/Recruitment/2009-10/04 published on 12.08.2009 in the establishment of Principal cum Chief Superintendent, Jorhat Medical College & Hospital, Jorhat. The advertisement clearly provides the scale of pay of the Stenographer Grade-III as Rs. 3010-6075/- per month plus other allowances as admissible under the Rules.

4. The grievance of the petitioners, who are graduate, is that the petitioners were appointed as Stenographer Grade-III. However, they have been denied the Grade Pay as per

the Assam Stenographers Service Rules, 1995. The Schedule-II (Rule-23) provides the Scale of Pay in respect of the Stenographer Grade-III as Rs. 1515-40-135-50-1885-EB-50-2035-60-2395-80-2715. In the advertisement dated 12.08.2009 the scale of pay for the post of Stenographer/Steno typist is reflected as Rs. 3010-6075/- per month plus other allowances as admissible under the Rules.

5. It is the contention of the learned Senior counsel, that though the advertisement provides the scale of pay Rs. 3010-6075/- per month plus other allowances as admissible under the Rules, the same is contrary to the Assam Stenographers Service Rules, 1995. Therefore, the petitioners being the graduate Stenographer Grade-III is entitled to the Grade Pay as prescribed under the Assam Stenographers Service Rules, 1995.

6. Ms. D. Bora, learned Standing Counsel for the Health Department referring to the affidavit filed by the Department submits that the Principal cum Chief Superintendent, Jorhat Medical College & Hospital, Jorhat, has already forwarded the case of the petitioners for grant of pay scale way back in 2014, whereby, it has been requested the competent authority for grant of Grade Pay to the Stenographer Grade-III, who have been appointed and working in the Jorhat Medical College & Hospital, Jorhat.

7. Mr. P. Nayak, learned Standing Counsel for the Finance Department submits that since the petitioners were appointed as Stenographer Grade-III, in terms of the advertisement dated 12.08.2009, whereby, the scale pay of Rs. 3010-6075/- per month is clearly provided and also in terms of the appointment order, they are being paid the scale of pay. The petitioner cannot turn around and say that they should be granted a different pay scale other than the scale of pay provided in the advertisement and appointment order. However, he submits that if there is any anomaly, it has to be placed before the pay anomaly committee.

8. Mr. P. Nayak further submits that the Health & Family Welfare Department has been requested to place the matter before the next Pay Commission as and when constituted. There is no specific recommendation by the 7th Assam Pay and Productivity Pay Commission for upgradation of Grade Pay of Steno-Typist/Stenographer under Directorate of Medical Education in Health & Family Welfare Department from existing GP 6,200/- to GP 7,400/-. The Anomaly Committee, 2017 examined the demands of the petitioners and found no

justification for interference. In absence of specific recommendation of the 7th Assam Pay and Productivity Pay Commission or Anomaly Committee, 2017, the Finance (Pay Research Unit) Department is not in a position to upgrade the Grade pay of Steno-Typist/Stenographer under Directorate of Medical Education in Health & Family Welfare Department. Moreover, more than 6 (six) years have already elapsed since the 7th Assam Pay and Productivity Pay Commission which came into effect from 01.04.2016. If the demand of the petitioners is considered now, then this will lead to similar demands from other employees/associations causing huge dent in the State exchequer. As such, the petitioners may place the demand before the next Pay Commission as and when constituted.

9. By way of rejoinder, Mr. T.J. Mahanta, learned Senior Counsel submits that the case of the petitioner is not a case of pay anomaly rather the petitioners are claiming Grade Pay as per the Assam Stenographers Service Rules, 1995. Therefore, there is no question of placing before the Pay Anomaly Committee

10. I have considered the submissions of learned counsel for the parties and also gone through the materials available on record.

11. The petitioners were appointed as Stenographer Grade-III, pursuant to the advertisement dated 12.08.2009 in the Scale of Pay of Rs. 3010-6075/- per month plus other allowances as admissible under the Rules. It is not disputed that the petitioners have not been granted the Grade Pay, in terms of the Assam Stenographers Service Rules, 1995. According to the respondents, the petitioners are being paid the Scale of Pay as provided in the advertisement (supra) and the appointments, which is clearly reflected the scale of pay of Rs. 3010-6075/-. It is also stand of the state respondents particularly the Finance Department that the petitioners are being paid the Scale Pay as well as Grade Pay as per the subsequent Pay Commission recommendation as under qualified Stenographer.

13. On consideration of the stand of the Finance Department, it appears that the case of the petitioners was placed before the 7th Pay and Productivity Pay Commission. However, the same was rejected having been not found any justification. Therefore, the stand of the Finance Department is that if the demand of the petitioners is considered now, then this will lead to similar demands from other employees/associations causing huge dent in the State

exchequer.

14. Having considered that the claim of the petitioners is for grant of Grade Pay in terms of the Assam Stenographers Service Rules, 1995, this Court is of the view that the grievance raised by the petitioners needs to be considered in terms of the Rules with regard to the Grade Pay. The grievance raised is fortified by the letter dated 12.02.2014 by the Principal cum Chief Superintendent, Jorhat Medical College & Hospital, Jorhat, whereby, the request has been made for grant of Scale of Pay and Grade Pay to the petitioners with detail explanation and with reasons.

15. Having considered above and in view of the nature of grievance raised by the petitioners and as agreed to by the parties, I deem it appropriate to dispose of the writ petition with a direction to the petitioner to file a fresh representation before the respondent authorities particularly the respondent nos.1 and 2. Accordingly, the petitioners are directed to file a detail representation before the Commissioner and Secretary to the Govt. of Assam, Health & Family Welfare Department and the Commissioner and Secretary to the Govt. of Assam, Finance Department within a period of 15 (fifteen) days from today. On receipt of the representation, thereafter, the respondent authorities particularly, the Commissioner and Secretary to the Govt. of Assam, Health & Family Welfare (B) Department and Commissioner and the Secretary to the Govt. of Assam, Finance Department, shall consider and dispose of the representation of the petitioners in accordance with the applicable Rules and the law within a period of 3(three) months from today.

16. With the above observation and direction, this present writ petition is disposed of.

JUDGE

Comparing Assistant