

GAHC010019862015



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

Case No. : WP(C)/5070/2015

DEWAN BASFOR
S/O LT. SUTHAR BASFOR, R/O PURBANCHAL NAGAR, HENGRABARI, GHY-
36, DIST- KAMRUP METRO, ASSAM

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, PHE
DEPTT., DISPUR, GHY-6, ASSAM

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-6

3:THE CHIEF ENGINEER
PHE DEPTT.
HENGRABARI
GHY-36

4:THE EXECUTIVE ENGINEER
PHE DEPTT.
GUWAHATI DIVISION-II
GHY-21

5:THE ASSTT. EXECUTIVE ENGINEER
PHE DEPTT.
DISPUR SUB DIVISION
DISPUR
GHY-6

6:THE SUPERINTENDING ENGINEER PHE

GUWAHATI CIRCLE
BAMUNIMADAM
GHY-21

7:JAYANTI SAUD @ DEKA
PEON
O/O THE CHIEF ENGINEER
PHE
P. HENGRABARI
GHY-36

8:BUDDHESWAR BORO
PEON
O/O THE CHIEF ENGINEER
PHE
P. HENGRABARI
GHY-36

9:TIKARAM BHATTARAI
CHOWKIDER
GRADE-IV
O/O EXECUTIVE ENGINEER
PHE
SandW DIVISION
BETKUCHI
GHY-35

10:HITESWAR DAS
CHOWKIDER
O/O THE SUPERINTENDING ENGINEER
PHE
GUWAHATI CIRCLE
BAMUNIMADAM
GHY-21

11:MAHENDRA BASFOR
PEON
GRADE-IV
O/O THE CHIEF ENGINEER
PHE
P. HENGRABARI
GHY-36

12:BIJAY DEKA
CHOWKIDER
GRADE-IV
O/O THE CHIEF ENGINEER
PHE

HENGRABARI
GHY-3

Advocate for the Petitioner : MR.N K KALITA, MR.R TALUKDAR

Advocate for the Respondent : SC, FINANCE, MS.A VERMA,MR.N D BHUYAN(R-6,10&11),MR.J I BORBHUIYA,SC, P H E,MS.S BHATTACHARYYA(R- 6,10&11)

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

12.09.2024

- 1.** Heard Mr. N.K. Kalita, learned counsel for the petitioner and Mr. I. Borthakur, learned Standing Counsel for the respondent PHE Department and Mr. R. Borpujari, learned Standing Counsel, Finance Department for the respondent no.2.
- 2.** By filing this writ petition the petitioner prays for a direction to the respondent authorities to regularize his service in the Grade-IV post in view of the fact that other similarly situated persons such as the private respondents who had in fact entered much later than the petitioner in service have been regularized.
- 3.** The learned counsel for the petitioner also submits that as per the affidavit-in-opposition filed by the respondent no.3, i.e. the Chief Engineer, PHE Department, the same supports the case of the petitioner, as it is stated that the petitioner has been working on casual basis since 01.05.1993 and other persons similarly situated have been regularized, in terms of the approval given by the State Government.

4. The learned counsels appearing for the respondents on the other hand submit that in view of the decision of the Division Bench of this Court in the case of ***State of Assam vs. Upen Das***, reported in **(2017) 4 GLR 493**, there is no scope of regularizing the service of the petitioner. The learned counsels submit that the Government of Assam had come up with an Office Memorandum dated 16.06.2012 providing that there will no longer be regularization of Muster Roll or Work-Charged workers by treating supernumerary post. The same was however interfered with by the learned Single Judge, but was reversed by the Division Bench in ***Upen Das (supra)***. The learned counsels submit that only benefit which can be given to the petitioner would be only in terms of paragraph-22 of the judgment of the Division Bench in ***Upen Das (supra)***.

5. Upon hearing the parties and upon perusal of the materials available on record, it only appears that the case of the petitioner is squarely covered by the decision of the Division Bench of this Court in ***Upen Das (supra)*** and accordingly, no relief can be granted to the petitioner, insofar as his regularization is concerned. However, if the petitioner has not been receiving the minimum scale of pay in terms of paragraph-22 of the judgment under reference, the same should be given to him by the respondent authorities. In order to grant such benefit the respondents will be at liberty to make necessary verification and if the petitioner has not been granted any such benefit, the same should be given to him w.e.f. 01.08.2017.

6. With the above observations and directions, the writ petition stands

disposed of.

JUDGE

Comparing Assistant