

GAHC010031912024



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

Case No. : WP(C)/772/2024

SABITRI DEKA @ SABITRI DAS AND 17 ORS
C/O PRANHARI DAS,
R/O VILLAGE- CHINADI,
P.O. CHINADI, P.S. SARTHEBARI,
DIST. BARPETA, ASSAM

2: HARBALA MEDHI
C/O RABIN DAS

R/O VILLAGE- BAR SADERI

P.S. PATACHARKUCHI

DIST. BAJALI
ASSAM

3: BINA DEKA @ BINA DEKA DAS
W/O JATIN DAS

R/O VILLAGE- HOWLY TOWN
WARD
NO. 2
P.O. HOWLY
P.S. HOWLY

PIN 781316

DIST. BARPETA
ASSAM

4: NIJARA NATH @ NIJARA MEDHI
C/O GAPESH MEDHI

R/O VILLAGE- TUPLAI PANBARI

P.S. PATACHARKUCHI

DIST. BAJALI
ASSAM

5: RANJU DEVI
C/O UMA BHATTA R/O VILLAGE- SARUPETA TOWN

P.S. PATACHARKUCHI
PIN 781318

DIST. BAJALI
ASSAM

6: KOLIMA SWARGIARY
C/O CHANDRA KANTA BASUMATARY

R/O VILL.-ATHIABARI
CHANDANPUR

P.O. BARPETA ROAD
PIN 781315

P.S. BARPETA

DIST. BAKSA
ASSAM

7: HIRAN CHOUDHURY
C/O BASANTA CHOUDHURY

R/O VILLAGE-BAR BAMAKHATA

P.S. PATACHARKUCHI

DIST. BARPETA
ASSAM

8: SARADA TALUKDAR
C/O HARENDRA DAS

R/O VILLAGE-NALANA

P.S. PATACHARKUCHI

DIST. BAJALI
ASSAM

9: DIPALI DAS
C/O SATENDRA CHOUDHURY

R/O VILLAGE- SARUPETA

P.S. PATACHARKUCHI

DIST. BAJALI
ASSAM

10: MRS. REZIA BEGUM
W/O MD. SUMED ALI

R/O VILLAGE- BONBAHAR

P.O. KAYAKUCHI
PIN 781352

DIST. BARPETA
ASSAM

11: MRS. MALAYA DEVI
W/O PANKAJ SHARMA

R/O VILLAGE- DHEMCHA PATHAR

P.S. BARPETA ROAD

DIST. BARPETA
ASSAM

12: HEMLATA KALITA
C/O BASANTA KALITA

R/O VILLAGE- RAHADHAR BIRKALA

P.S. PATACHARKUCHI

DIST. BAJALI
ASSAM

13: DIPALI BARMAN
W/O HEMCHANDRA KALITA

R/O VILLAGE- DHARAMTALA

P.S. PATACHARKUCHI

PIN 781326

DIST. BAJALI
ASSAM

14: MANITA BAISHYA
C/O NARAYAN PATHAK

R/O VILLAGE- NAGAON

P.O. NAGAON
P.S. BARPETA

DIST. BARPETA
ASSAM

15: JARINA KHATUN
C/O ALI AKBAR AHMED

R/O VILLAGE BARBALA

P.O. BARBALA
PIN 781316

P.S. HOWLY

DIST. BARPETA
ASSAM

16: SARASWATI TALUKDAR @ SARASWATI DAS
C/O LATE DAYARAM TALUKDAR
R/O VILLAGE- BAHARI

P.S. TARABARI

DIST. BARPETA
ASSAM

17: SANDHYA SARKAR
W/O PRIYA RANJAN DAS

R/O BARPETA ROAD
WARD NO. 2

P.O. BARPETA ROAD
PIN 781315

DIST. BARPETA
ASSAM

18: MAHMUDA KHATUN
C/O JOYNAL ABDIN MONDAL

R/O VILLAGE- KALGACHIA

P.O. KALGACHIA
P.S. KALGACHIA

PIN 781319

DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI-781005, ASSAM

2:SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE
DISPUR

GUWAHATI 781006
ASSAM

3:THE DIRECTOR OF HEALTH SERVICES (FW)

GOVERNMENT OF ASSAM
SWASTHYA
HENGRABARI

GUWAHATI-781036
ASSAM

4:THE ACCOUNTANT GENERAL
ASSAM

MAIDAMGAON
BELTOLA

GUWAHATI-781029
ASSA

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 04-03-2024

Heard Ms. S.G. Baruah, learned counsel for the petitioners. Also heard Ms. D. Borah, learned Standing Counsel, Health Department and Mr. S.K. Medhi, learned Standing Counsel, Accountant General.

2] The 18 (eighteen) petitioners herein project that they have common cause of action and they have joined together to file this writ petition under Article 226 of the Constitution of India. The petitioner nos. 1 to 6 are the retired employees who were working under the Directorate of Health Service (Family Welfare) and the petitioner nos. 7 to 18 are serving under Directorate of Health Service (Family Welfare), Assam. It is projected that the petitioners have been deprived of benefit of the Revision of Pay Rules, 1990 (RoP Rules, 1990 for short), which was given to other Government Departments. The case of the petitioners is that their pay is required to be re-fixed on the ground that the petitioners are being paid lesser pay and emoluments than what they were receiving earlier under the pre-revised scale of pay.

3] It is submitted by the learned counsel for the petitioners that the case of the petitioners is squarely covered by judgment and order dated 18.11.2002 passed by this Court in Civil Rule No.6567/1998 (Jibeswar Das & Ors. vs. The State of Assam & Ors.) and judgment and order dated 16.11.2012 passed by this Court in WP(C) No.1806/2009 (Bipul Chandra Das & Ors. vs. the State of Assam & Ors.) and connected matters.

4] The learned standing counsel for the Health Department submits that the basic pay of the petitioners was Rs.500/- and dearness allowance was calculated @ 102.9% which amounts to Rs.515/-. The petitioners are also entitled to special relief @ 4.2% amounting to Rs.21/- and further interim relief @ Rs.80/- and therefore, the aggregate salary of the petitioners was Rs.1116/-, which was less than the initial pay of Rs.1125/- and therefore, the initial pay of the petitioner was fixed at initial pay of Rs.1125/- as per Rule 6 of the ROP Rules, 1990.

5] In view of above, the Court is of the considered opinion that in terms of hereinbefore referred judgment and order dated 16.11.2012 passed in WP(C) 1806/2009 and other connected matters, the issue regarding fixation of pay is required to be revisited by respondent no.3. It is provided that while considering the case of the petitioners, the respondent no.3 would be guided by

hereinbefore referred judgment and order dated 16.11.2012 passed in Civil Rule No. 6567/1998 (Annexure-3) and WP(C) 1806/2009 (Annexure-4).

6] The entire exercise shall be carried out within a period of 2(two) months from the date of receipt of a certified copy of this order along with a copy of the writ petition.

7] Accordingly, this writ petition stands disposed of in the manner as indicated above.

JUDGE

Comparing Assistant