

GAHC010040732023



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

Case No. : WP(C)/1301/2023

RABIJUL ALOM
S/O- RIAJ UDDIN,
VILL. BURUNGA PT.-I,
P.O.- TIKARBURUNGA, P.S.- KATIGORAH,
DIST.- CACHAR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF
ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
JURIPAR
PANJABARI

GUWAHATI- 37.

4:THE CHIEF EXECUTIVE OFFICER
CACHAR ZILLA PARISHAD
P.O. AND P.S.- SILCHAR

DIST.- CACHAR
ASSAM

PIN- 788103.

5:THE BLOCK DEVELOPMENT OFFICER
KALAIN DEVELOPMENT BLOCK
P.O.- HILARA
P.S. KATIGORAH

DIST.- CACHAR
ASSAM
PIN- 788817

Advocate for the Petitioner : MR. A M S MAZUMDER
Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 02/02/2024

Heard Mr. A. M. S. Mazumder, learned counsel for the petitioner. Also heard Mr. R. Borpujari, learned standing counsel, Finance Department and Mr. P. Handique, learned standing counsel, P & RD.

2. This writ petition is filed by the petitioner praying for grant of minimum wages. Petitioner is working as a Junior Assistant (LDA) at fixed pay basis in the Office of Kalain Anchalik Panchayat. He is being presently paid a fixed pay of Rs.500/- per month. Since his date of appointment on 20.08.2005, the petitioner has been rendering his services. However, during the course of the arguments the learned counsel for the petitioner submits that at this stage the writ petitioner seeks the benefit of grant of Minimum of the Pay scale as per the Judgment passed by the Division Bench of this Court in *W.A. No.45/2014 (the State of Assam and Ors. Vs Upen Das and Ors.)*, which was disposed of on 08.06.2017.

3. The petitioner before this Court had approached earlier by filing WP(C)/8695/2019 seeking a direction to the respondents to consider their case

in terms of the Judgment and Order dated 08.06.2017 passed in *W.A. No.45/2014 (the State of Assam and Ors. Vs Upen Das and Ors.)*. On this limited prayer a Co-Ordinate Bench of this Court by order dated 29.11.2019 disposed of the writ petition with a direction to the respondents, more particularly, Principal Secretary to the Government of Assam, P&RD Department, to consider the case of the petitioner for such benefits as stipulated at paragraph 22 of the Judgment and Order dated 08.06.2017 passed in *W.A. No.45/2014*. However, due to non-compliance of the order, the petitioner filed a contempt petition before this court being Contempt Case(C) No. 409/2020. This court by order dated 30.01.2023 closed the contempt petition on the submissions made by the learned counsel for the P&RD department that they had processed the claims of the petitioner and forwarded it to the Finance Department, but the Finance Department did not accord approval, as a result of which, the matter could not be processed further and that there was no willful violation of the Court's order by the Panchayat and Rural Development Department, this Court upon consideration of these submissions, came to a finding that the directions passed in by order dated 29.11.2019 in *WP(C)/8695/2019*, were in respect of the respondents arrayed therein, more particularly the P&RD department to examine the claims of the petitioner in terms of the Judgment and Order dated 08.06.2017 passed in *W.A. No.45/2014* and since the Finance Department was not arrayed as a party, no direction could have been or was issued to the Finance Department and therefore, in so far as the P&RD department is concerned, they having complied their part of the directions of the writ Court, no willful and deliberate violation of the order dated 29.11.2019 passed in *WP(C)/8695/2019* was made out and the contempt petition was accordingly closed. This Court while disposing of the contempt

matter, however, granted liberty to the petitioner to availed appropriate remedy as may be permissible to the petitioner under law against the Finance Department. Under these circumstances, the petitioner is again before this Court praying for similar directions by arraying the Finance Department as a party.

4. Considering that the limited prayer of the petitioner is for examination of their cases by the respective departments and granting them the benefits prayed for in terms of the directions contained in Judgment and Order dated 08.06.2017 passed in W.A. No.45/2014, without expressing anything on merit, this writ petition stands closed, directing the respondent authorities to consider afresh the claims of the writ petitioners and to examine their claims and if it is found that they are entitled to the benefits in terms of the Judgment and Order dated 08.06.2017 passed in W.A. No.45/2014, then necessary orders be passed with due concurrence of the Finance Department. The Finance Department will also examine any such proposal as may be forwarded by the Administrative Department and pass appropriate orders thereon as to whether the petitioners can be granted the benefit of the payment of minimum wages in terms of the directions contained in Judgment and Order dated 08.06.2017 passed in W.A. No.45/2014.

5. In terms of the above, this writ petition stands disposed of. No order as to cost. Interim order, if any, stands vacated.

6. The entire exercise shall be completed within a period of 120 days from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant