

GAHC010069242024



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

Case No. : WP(C)/1946/2024

PRAMOD JAISWAL AND 26 ORS.
S/O LATE J.N JAISWAL, R/O MELA ROAD, ITKHOLA MALUGRAM
SILCHAR, ASSAM, DIST- CACHAR- 788002.

2: MD. AMINUL HUSSAIN LASKAR
C/O ASHIRUDDIN LASAKAR
R/O LANE END ROAD
SILCHAR

DIST- CACHAR
ASSAM
PIN 788002.

3: DILIP KUMAR BADYAKAR

LATE MAHENDRA CHANDRA BADYAKAR
R/O BIDYA SAGAR SARANI SRIRAM

PALLY
ROSOBOLA NIBASH
RANGIRKHARI
SILCHAR
DIST- CACHAR
ASSAM

PIN- 788005.

4: RAJU RAJBONGSHI

S/O LATE GANGARAM RAJBONGSHI
R/O SRINAGAR ROAD
BYE LANE
MALUGRAM
SILCHAR

DIST- CACHAR
ASSAM.
PIN-788009.

5: SAHAZAN AHMED MAZUMDER

C/O RAJAMONI MAZUMDAR

R/O NG 37 MANIPUR
ROAD
NEARARKATIPUR
RONGPUR- PART-1
DIST- CACHAR
ASSAM
PIN-788009.

6: SHAMSUL ALAM LASKAR

S/O LATE ABDUL KHALIQUE LASKAR
R/O GONIRGRAM BTC BURIBALI
PART-II
DIST- CACHAR
ASSAM
PIN- 788030.

7: MASUK UDDIN MAZUMDER

S/O LATE ALIUR RAHMAN MAZUMDER

VTC
R/O GOSSAIPUR PART -V

UDHARBOND

DIST- CACHAR
ASSAM

PIN- 788030.

8: MAKHAN KURMI
S/O LATE MANILAL KURMI

R/O DOYAPUR PART-II

DIST- CACHAR
ASSAM
PIN- 788030.

9: HAWATUN NECHA

S/O LATE ABDUL MATLIB BARBUUIYA

R/O NIZ JOYNAGAR VTC

SILCHAR

DIST- CACHAR

ASSAM.

PIN- 788025.

10: MOINA MIA CHOUDHURY

S/O LATE SANU HAR ALI CHOUDHURY

R/O BAGPUR PART-III

DIST- CACHAR

ASSAM

PIN-788101.

11: NARAYAN GHOSH

S/O LATE MUKUL GHOSH

R/O 1ST LINK ROAD

NO.6 UTTAR KRISHNAPUR

SILCHAR

DIST- CACHAR

ASSAM.

PIN- 788006.

12: GOPAL DAS

S/O LATE DINESH DAS

C D HOME MEHERPUR

HAILAKANDI ROAD

DIST- CACHAR

ASSAM

PIN- 788015.

13: ALI AKBAR BAR

S/O LATE ALA UDDIN BARBHUIYA

R/O NEAR PHE TUPKHANA PART- 1

BALIGHAT
DIST-CACHAR
ASSAM.
PIN- 788025.

14: SHEKHAR CHANDRA DAS

S/O LATE SUDHIR CHANDRA DAS
R/O TIKAGRAM KUMAR PARA

MASIMPUR
ARUNACHAL
SILCHAR
CACHAR
ASSAM.
PIN- 788025.

15: TAPAN KUMAR DEB

S/O LATE RAMANANDA DEB
R/O SADARGHTA BRIDGE
RONGPUR
PART- IV
SILCHAR
DIST-CACHAR
ASSAM.
PIN- 788009.

16: RAJENDRA BARHI
S/O LATE KAMOUDH BARHI
R/O KASHIPURTE
NATUNDAYAPUR

SILCHAR
DIST- CACHAR
ASSAM.
PIN- 788009.

17: HASI RANI DAS
C/O NIRMAL CHANDRA DAS
R/O NIZ JOYNAGAR VTC

SILCHAR
DIST- CACHAR
ASSAM.
PIN- 788025.

18: MONIZUR RAHMAN CHOUDHURY

S/O LATE JAIN UDDIN CHOUDHURY
VTC BAGPUR PART -III
SONAI

DIST-CACHAR
ASSAM.
PIN-788101.

19: TAPAN KUMAR DEY
S/O LATE BINAY DEY
R/O RONGPUR PART- IV

SILCHAR
DIST-CACHAR
ASSAM
PIN- 788009.

20: HUSSAIN AHMED BARBHUIYA

S/O LATE ABDUL SATTAR BARBHUIYA

R/O VICHINGCHA PART- 1

DIST- HAILAKANDI
ASSAM.
PIN- 788155.

21: KAMAL UDDIN CHOUDHURY

S/O LATE JUNAB ALI CHOUDHURY

R/O BICHINGCHA PART-II

DIST- HAILAKANDI
ASSAM
PIN- 788155.

22: JAMAL UDDIN BARBHUIYA

S/O LATE ARJUMOND ALI BARBHUIYA

R/O BROJAPUR
BAHADURPUR PART-II

DIST- HAILAKANDI
ASSAM
PIN- 788155.

23: AFIA BEGUM MAZUMDER

C/O HABIBUR RAHAMAN MAZUMDER

R/O RANGAUTI PART-II

DIST-HAILAKANDI

ASSAM

PIN - 788155.

24: SAYUR AHMED MAZUMDER

C/O LATE TAZAMULALI MAZUMDER

R/O AMJURGHTA

SONAI

DIST- CACHAR

ASSAM.

PIN-788119.

25: SHARIF UDDIN BARLASKAR

S/O LATE FIAZ UDDIN BARLASKAR

R/O BARJATRAPUR

BORKHOLA

DIST-CACHAR

ASSAM.

PIN- 788110.

26: RAMDHIN GOUR

S/O LATE DHANURAM GOUR

R/O DAYAPUR

PART-II

DIST- CACHAR

ASSAM

PIN- 788030.

27: RAMJANAM RABIDAS

S/O LATE MANAWA RABIDAS

R/O GANGAPUR BADRI PART-IV

DIST- CACHAR

ASSAM.

PIN- 788009

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM,
DISPUR, GUWAHATI -781006.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM

INLAND WATER TRANSPORT
DEPARTMENT

DISPUR
GUWAHATI - 781006.

3:THE DIRECTOR
INLAND WATER TRANSPORT

ASSAM
ULUBARI
GUWAHATI - 781007

4:THE EXECUTIVE ENGINEER
INLAND WATER TRANSPORT
CHANDMARI ROAD
SILCHAR
CACHAR
PIN 788003.

5:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI 781006

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

10.05.2024

Heard Shri B.D. Das, learned Senior Counsel assisted by Shri H.R. Das, learned counsel for the petitioners. Also heard Ms. M. Bhattacharya, learned Addl. Senior Government Advocate for the respondent no. 1, Ms. M.D. Bora, learned Standing Counsel, Transport Department for the respondent nos. 2, 3 & 4 and Shri A. Chaliha, learned Standing Counsel, Finance Department.

2. Considering the subject matter, the stand and the enclosures made in the affidavit-in-opposition filed by the respondent no. 3, this writ petition is taken up for disposal at the motion stage.

3. The petitioners who are 27 in numbers are working as Muster Roll Workers in the Office of the Executive Engineer, IWT, Silchar and they claim to have been appointed in the years, 1993, 1994, and 1995 and have been continuously rendering their service. Though the petitioners admit of being given the due pay as per their Grade, Dearness allowance and Medical Allowances like the regular employees, no pensionary benefits are there. The aforesaid aspect was raised on behalf of the petitioners by the Sodou Assam Karmachari Parishad (SAKP) pursuant to which a meeting was held on 22.09.2023 which was chaired by the Chief Secretary of the State and the other Government officials and the members of the Parishad. One of the specific agenda against Serial No. 18 was on the present claim. The meeting had taken a resolution for examining the matter in the light of the extant guidelines, Office Memorandum issued by the Finance Department from time to time.

4. The learned Senior Counsel has submitted that the aforesaid aspects have not been considered and in the meantime, some of the petitioners are at the verge of the

retirement. He therefore prays for an appropriate direction.

5. Pursuant to the initial order passed by this Court, the respondent no. 3 has filed an affidavit-in-opposition on 09.05.2024 which has been placed on record.

6. Ms. M. D. Bora, learned Standing Counsel for the Transport Department has submitted that pursuant to the resolution dated 22.09.2023 the matter was examined whereafter an order has been passed on 03.05.2024 whereby it has been held that the claim raised is covered by the judgment of this Court rendered in a case of ***State of Assam vs. Upen Das*** reported in ***2017 4 GLR 493***.

7. The learned Standing Counsel submits that there is a specific reference to the point no. 18 of the meeting held on 22.09.2023 and accordingly the representation submitted by the petitioners in this regard has been disposed of.

8. The contention of the petitioners, in the considered opinion of this Court is the same which was the subject matter before the Hon'ble Division Bench in the case of ***Upen Das*** (supra) wherein the claim for pensionary benefits by such persons have been rejected. Further, the directions passed in the case of ***Upen Das*** (supra) towards giving a minimum pay scale was upon a concession by this Court as would appear from the observations made in paragraph 22 thereof which is extracted herein below:

“22. It is, however, heartening to learn that the State Government has agreed not to terminate the Muster Roll, Work Charged and similarly placed employees working since last more than 10 years (not in sanctioned post) till their normal retirement, except on disciplinary ground or on ground of criminal offences. The State Government has also agreed to enlist such employees in Health and Accidental and Death Insurance Scheme, which will be prepared in consultation with the State Cabinet. We appreciate this positive stand of the State Government taken as welfare measures for the betterment and security of the employees, in question. We, accordingly, direct the State Government to implement the measures without further delay. Besides this, we, in the light of

decision of the Supreme Court in State of Punjab vs. Jagjit Singh, (2017) 1 SCC 148, also direct the State Government to pay minimum of the pay scale to Muster Roll workers, Work Charged workers and similarly placed employees working since last more than 10 years (not in sanctioned post) with effect from 1.8.2017.”

9. The order dated 03.05.2024 apart from not being the subject matter of challenge appears to be clearly in terms and in consonance with the views of the Hon’ble Division Bench in the case of ***Upen Das*** (supra) in examining the case of the petitioners.

10. In view of the above, this Court is of the considered opinion that no case for grant of any relief is made out and accordingly the writ petition is dismissed.

JUDGE

Comparing Assistant