

GAHC010071482022



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

Case No. : WP(C)/2790/2022

BHABENDRA KUMAR BAISHYA AND 7 ORS
S/O- LATE JIBAN CH. BAISHYA
R/O- DALIBARI
P.O- DADARA
DIST- KAMRUP, ASSAM

2: DINA NATH SAIKIA
S/O- KESHORAM SAIKIA
VILLAGE- BARPATGAON
P.O- GHORAMARI
DIST- SONITPUR
ASSAM

3: SUREN DAS
S/O-LATE SORU NATH DAS
R/O- VILLAGE- BARLAH (SHREEHATI)
P.O- HALOGAON
DIST- KAMRUP
ASSAM

4: NAREN CH. TALUKDAR
S/O- LATE BHUBANESWAR TALUKDAR
VILL AND P.O- UPARHALI
DIST- KAMRUP
ASSAM

5: AIKAN BARMAN
W/O- LATE AMBIKA BARMAN
VILL. AND P.O- BALIKURIA
DIST - NALBARI
ASSAM

6: TULSI BORA
W/O- LATE PONA RAM BORA

VILL.-HATINGA RAMPUR
P.O- HATINGA
DIST - SONITPUR
ASSAM

7: PANKAJ CH. LODH
S/O- LATE NALINI LODH
VILL.- BHOTPARA
P.O-ALI
DIST - SONITPUR
ASSAM

8: DAMIYANTI BALA DAS
W/O- LATE NARESWAR DAS
VILL. AND P.O- DEGHALI
DIST - NALBARI
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR, GUWAHATI-06

2:THE COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
JURIPAR
SIX MILE
GUWAHATI-37

4:THE DIRECTOR
OF PENSION
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-0

Advocate for the Petitioner : MR. M DUTTA, MR. M ISLAM

Advocate for the Respondent : SC, P AND R.D., GA, ASSAM,SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 26.09.2024

Heard Mr. M. Dutta, learned counsel for the petitioners. Also heard Ms. S. Dutta, learned Standing Counsel, P&RD and Mr. R. Dhar, learned counsel for the respondent No. 4.

2. By way of this petition under Article 226 of the Constitution of India, the petitioners are seeking direction to re-fix the pension of the petitioners by taking their correct pay scale as Rs. 566/- (Basic Pay) per month instead of incorrect pay scale of Rs. 494/- per month, on the basis of which the pension of the petitioners were earlier calculated.

3. The case of the petitioners are that the petitioners had served as Secretaries in different Gaon Panchayats under various Zilla Parishads and after rendering services for fairly long period, they had superannuated from service.

4. Upon being superannuated and at the time of payment of their retirement dues, the respondent authorities came to a conclusion that the petitioners had excessed drawal of salaries, which was thereafter recovered from their retirement dues. Aggrieved by such actions of the respondent authorities, the petitioners approached this Court by way of WP(C) No. 2076/2013, wherein this Court by Order dated 14.08.2013, upon holding that the respondents have not been able to place any materials on record to show the fixation of pay at Rs.

566/- per month in respect of the petitioners w.e.f. July, 1981 was pleased to allow the writ petition by directing that the deduction made by the respondents from the retirement dues of the petitioners cannot be sustained. This Court further directed the respondents more particularly the Commissioner, P&RD Department, Government of Assam to examine the case of each of the petitioners and thereafter, pass appropriate orders for re-fund of the amount deducted from the retirement dues of the petitioners within a period of 3 (three) months from the date of receipt of a certified copy of this order.

5. It is the specific case of the petitioners that pursuant to the said order, the case of the petitioners were examined and thereafter, the amount deducted from the retirement dues of the petitioners were re-funded to the petitioners. However, despite of such examination and deduction, the petitioners' pension is still being paid as per the incorrect rate of scale of pay at Rs. 494/- per month instead of correct pay scale of Rs. 566/- per month and accordingly, this writ petition has been filed.

6. Mr. M. Dutta, learned counsel for the petitioners draws the attention of this Court to an order passed in respect of a similarly situated person in **WP(C) No. 7793/2016** in the case of **Dinesh Chandra Das & Ors. Vs. The State of Assam and Ors.**, wherein this Court directed that the entitlement to the pension of the petitioners is to be based on the scale of pay of Rs. 566/- per month and accordingly, set aside the pension payment order being given to the petitioners on the basis of incorrect pay scale of Rs. 494/- per month.

7. Ms. S. Dutta, learned Standing Counsel, P&RD submits that he has received instructions to the effect that the Director of Pension, Assam by Letter dated

20.09.2023 has submitted the Service Books of the petitioner Nos. 6 & 7 under Sonitpur Zilla Parishad for re-calculation of pension and rest of other 6 (six) nos. of the petitioners Service Books is not being traced out yet in the office of Director of Pension, Assam as per Letter dated 18.07.2024 received from the Director of Pension, Assam.

8. Be that as it may, it appears that the case of the petitioners have been re-examined pursuant to the order of this Court dated 14.08.2013, whereafter the recoveries made was re-funded.

9. That being so, it appears that despite such re-examination, the petitioners are being paid pension at an incorrect rate and hence, this petition can be disposed of with a direction to the respondents to pay the arrear pension as well as the current pension in the correct rate.

10. It is needless to clarify that such exercise, in order to release the arrear pension of the petitioners in the correct rate, be concluded within a period of 3 (three) months from today.

11. With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant