

GAHC010071802024



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

Case No. : WP(C)/1985/2024

RINA MANI KALITA AND 2 ORS
C/O- SATYA HUZURI,
R/O- VILLAGE- BARDAIPAKHIA, BAIHATA,
P.O.- BAIHATA, PIN- 781380,
DIST.- KAMRUP, ASSAM.

2: GANGA BHARALI
W/O- KRISHNA KANTA MALAKAR

R/O- VILLAGE- ABHAYPUR
HAJO

P.O.- GERUA
P.S.- HAJO

PIN- 781102

DIST.- KAMRUP
ASSAM.

3: NIRUPAMA CHOUDHARY
W/O- BIRENDRA NATH KALITA

R/O- VILLAGE- JALIKHATA
RANGBARI

P.O.- HELANA
P.S.- PATHSALA

PIN- 781375
DIST.- BAJALI
ASSAM

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:THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI- 781006
ASSAM.

3:THE DIRECTOR OF HEALTH SERVICES (FW)
GOVERNMENT OF ASSAM
SWASTHYA BHAWAN
HENGRABARI

GUWAHATI- 781036
ASSAM.

4:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA

GUWAHATI- 781029
ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

17.05.2024

Heard Ms. S.G. Baruah, learned counsel for the petitioners. Also heard Mr. D.P. Borah, learned Standing Counsel, Health Department and Ms. A. Sarma, learned counsel appearing on behalf of Mr. B. Chakravarty, learned Standing

Counsel, Accountant General.

2] These 3 (three) writ 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 & 2 are presently working under the respondent no.3, namely, the Director of Health Services (FW) and the petitioner no.3 retired from service while working under Rangia Block PHE under Additional Director of Health Services, Amingaon, Kamrup. It is projected that the petitioners have been deprived of benefit of the Assam Services (Revision of Pay) Rules, 1990 (RoP Rules, 1990 for short), which was given to employees of 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 a Co-ordinate Bench of 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 a Co-ordinate Bench of this Court in WP(C) No.1806/2009 (Bipul Chandra Das & Ors. vs. the State of Assam & Ors.) and

other connected matters.

4] The learned standing counsel for the Health Department submits that the basic pay of the petitioners is Rs.500/- and dearness allowance is Rs.620/-. The petitioners are also entitled to special relief @ 4.2% amounting to Rs.21/- and further interim relief @ Rs.80/- and therefore, their pay would be Rs.1125/- instead of Rs.1225/- 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 Judgement and Order dated 18.11.2002 passed by a Co-ordinate Bench of this Court in Civil Rule No.6567/1998 (Jibeswar Das & Ors. vs. The State of Assam & Ors.) and Judgement and Order dated 16.11.2012 passed by a Co-ordinate Bench of this Court in WP(C) No.1806/2009 (Bipul Chandra Das & Ors. vs. the State of Assam & Ors.) 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 the referred Judgments and Orders dated 18.11.2002 passed in Civil Rule No. 6567/1998 (Annexure-3) and Judgment and Order dated 16.11.2012 passed in 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