

GAHC010132912020



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

Case No. : WP(C)/4020/2020

DHIRAJ NATH AND 2 ORS.
S/O. LT. BALLAV NATH, VILL. SHANTIPUR, P.O. AND P.S. JAMUGURIHAT,
DIST. SONITPUR, ASSAM, PIN-784180.

2: PRASANNA SAIKIA
S/O. LT. NIRANJAN SAIKIA
VILL. BAROBHUYAN
P.O. AND P.S. SOOTEA
DIST. BISWANATH
ASSAM
PIN-784175.

3: PULAK BHUYAN
S/O. HEMRAM BHUYAN
R/O. VILL. GOPALPUR
P.O. AND P.S. GOHPUR
DIST. BISWANATH
ASSAM
PIN-784168

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMM. AND SPL. SECY. TO THE GOVT. OF ASSAM, PUBLIC
WORKS (ROADS) DEPTT., DISPUR, GUWAHATI-781006.

2: THE UNDER SECRETARY
TO THE GOVT. OF ASSAM
PUBLIC WORKS DEPTT. ESTABLISHMENT-B BRANCH
DISPUR
GUWAHATI-781006.

3: THE EXECUTIVE ENGINEER

PUBLIC WORKS DEPTT.
SONITPUR
RURAL ROAD DIVISION
BISWANATH CHARIALI
P.O. AND P.S. BISWANATH
DIST. BISWANATH
ASSAM
PIN-784176

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 24/07/2024

Heard Mr. A. Sahad, learned counsel for the writ petitioner. Also heard Mr. R. Dhar, learned Standing Counsel, PWD, appearing for the respondent nos. 1, 2 & 3.

The 3(three) writ petitioners herein belong to the family of 'Martyrs' in the Assam Movement on the problem of foreigners. Therefore, they come within the definition of "affected candidates" under the Assam Public Service (Preferential Appointment) Rules, 1999. Section 4 of the Rules of 1999 permits preferential treatment to be given to the "affected candidates" in the matter of public appointment. Accordingly, the 3 (three) writ petitioners were temporarily appointed as Section Assistants under the PWD on 07/08/2020, pursuant where to, they had joined in the said posts. Since then, the petitioners are serving as Section Assistants under the establishment of Public Works Department, Government of Assam, against their temporary appointments. The grievance of the petitioners is that despite the lapse of nearly 23 years since their initial appointment, the services of the petitioners have not been regularized till today.

Mr. Sahad, learned counsel for the petitioners has submitted that the petitioners have submitted various representations, including those, before the highest executive authority of the State, seeking Redressal of their grievances. However, despite running from pillar to post, no action has been taken by the authorities in the matter, as a result of which, the services of the petitioners have not been regularized despite the lapse of nearly 23 years since their initial appointment.

The departmental authorities have not filed any affidavit in this case but Mr. Dhar has obtained written instruction and produced the same before this Court.

A perusal of the written instruction goes to show that the services of the petitioners could not be regularized due to the decision of the Division Bench of this Court rendered in the case of *Upen Das and 836 others Vs. State of Assam and others*. Mr. Dhar, however, submits that the petitioners would be entitled to all the benefits as may be permissible within the scope and ambit of the decision rendered by the Division bench in the case of *Upen Das (Supra)* including the minimum of pay scale and other service benefits. If that be so, the respondent authorities would be required to pass appropriate orders to that effect, without any further delay in the matter.

This writ petition is, therefore, being disposed of by directing the respondents to pass appropriate orders granting service benefits to the petitioners, as may be permissible, under the law.

This exercise be complete within 90 (ninety) days from today. After issuance of individual orders in case of each of the petitioners, if they are still dissatisfied in the matter, it would be open to the petitioners to approach this Court once again, in accordance with law, if so advised.

A certified copy of this order be produced before the concerned authority for doing the needful.

With the above observation, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant