GAHC010154652024

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

Case No. : WP(C)/3898/2024

MINATI KUMAR
W/O- KHAGENDRA NATH DAS, R/O- HOUSE NO. 21, SIVA MANDIR PATH, GOPAL NAGAR, NOONMATI, P.O. NOONMATI, P.S. NOONMATI, PIN- 781020, DIST.- KAMRUP (M), 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
ASSA

Advocate for the Petitioner : MS. S G BARUAH, MR. B BORGOHAIN,MR B SAIKIA,MR. S NEOG

Advocate for the Respondent : SC, HEALTH, SC, AG,SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 25-10-2024

Heard Ms. S.G. Baruah, learned counsel for the petitioner. Also heard the learned standing counsel, Health as well as Mr. P. Nayak, learned standing counsel, Finance Department.

2. The petitioner has filed this writ petition praying for a direction to the respondent authorities to re-fix the initial pay of the petitioners as per the provision of Revision of Pay Rules, 1990 with all consequential benefits including the arrears.

3. The petitioners, who is the employee of the Department of Health and Family Welfare, Govt. of Assam have been appointed between 01.03.1899 to 30.03.1989. It is contended that although their initial pay revision to be fixed in terms of the provision of Revision of Pay Rules, 1990 w.e.f. 01.01.1989, the benefit accrued to them has not been granted. It is further contended that similarly situated employees of the Govt. of Assam in other departments and Directorates have been extended benefits of the provision of Revision of Pay Rules, 1990.

4. The petitioner contended that similarly situated employees in the Directorate of Sericulture, Department of Handloom and Textiles and Directorate of Health Services (FW), Assam have been paid their initial pay applying the provision of Revision of Pay 1990. However, their fixation has been cancelled by the authorities consequent to which they had approached this Court by filing writ petition, wherein, the petitioners stated that some similarly placed employees in the Directorate of Sericulture, Department of Handloom and Textiles and Department of Directorate of Health Services (FW), Assam were paid their initial pay applying the provisions of the ROP Rules, 1990. However, by subsequent orders their fixation has been cancelled by the department, consequently, they approached the Hon'ble Gauhati High Court by way of a writ petition being Civil Rule No.6567/1998. The said case was finally heard on 18.11.2002. The Hon'ble High Court after hearing the learned counsel for the parties vide judgment and order dated 18.11.2002 in Civil Rule No.6567/1998 has set aside the impugned order dated 16.09.1998 with an observation that the petitioner (in Civil Rule No.6567/1998) shall be given all

consequential benefits in view of the re-fixation of the revised pay scale in terms of the order dated 23.04.1998.

5. The petitioner contended that following the said judgment and order, similarly placed employees in the Handloom and Textiles Department approached this Hon'ble Court by way of filing WP(C) No.1806/2009 and WP(C) 1666/2009 and this Court vide common judgment and order dated 16.11.2012, directed the Department of Handloom and Textiles to look into the grievances of the petitioners therein for refixation of their pay so that the same does not amount to fixation at a stage which is lesser than the total emolument which they used to receive under the pre-revised scale of pay and similarly placed employees of Department of Directorate of Health Services (FW), Assam .

6. Some similarly placed employees approached this Hon'ble High Court by filing a writ petition bearing WP(C) 2444/2019 and this Court vide and order dated 21.02.2022 directed to revisit the issue regarding fixation of pay of the petitioners of WP(C) 2444/2019. This Hon'ble Court in a similarly situated group of petitioners who approached the Hon'ble Court in WP(C) 772/2024 and WP(C) 1985/2024 disposed of the said writ petition 772/2024 and WP(C) 1985/2024 by an order dated 04.03.2024 and 17.05.2024 respectively and directed the respondent to revisit the issue with regard to fixation of pay and that the department would be guided by the judgment and order dated 16.11.2012 passed din Civil Rule No.6567/1998 and WP(C) 1806/2009 and other connected matters.

7. It is contended by the petitioner that the pay of the petitioner is required to be re-fixed on the ground that the petitioners are being paid lesser pay and emoluments.

8. Ms. S.G. Baruah, learned counsel for the petitioner submits that the case of the petitioner is squarely covered by the judgment and order dated 18.11.2002 passed in Civil Rule 6567/1998 and judgment and order dated 16.11.2012 passed in WP(C) 1806/2009 and other connected writ petition. She submits that this Court on 04.03.2024 in WP(C) 772/2024 has observed that in terms of the judgment and order dated 16.11.2012 passed in WP(C) 1806/2009 and other connected matters, the issue regarding fixation of pay is required to be revisit by the respondent No.3. It is also provided that while considering the case of the petitioners, the respondent No.3 would be guided by the judgment and order dated 16.11.2012 passed in Civil Rule 6567/98 and WP(C) 1806/2009 and consequently, directed the respondent authorities to carry out the exercise within a period of two months from the date of receipt of the certified copy of the order.

9. Mr. P. Nayak, learned Standing counsel, Finance Department submits that in view of the applicable Office Memorandum, it would be difficult to revisit and refixed the pay of the petitioners as

it would not be in accordance with the Rules.

10. On perusal of the judgment and order of this Court in the connected writ petitions, although the learned counsel for the respondent have vehemently opposed the disposal of the writ petition in the light of the aforesaid judgment and orders referred above, this Court finds that the judgment and orders (supra) squarely covers the grievance raised by the petitioners.

11. Having considered that the above referred judgment and orders of this Court squarely covers the case of the petitioners, as the petitioners are similarly situated employees of the State Government, I deem it appropriate to dispose of the writ petition providing the similar direction as the judicial discipline and propriety demands to follow the judgment and order of the coordinate Bench unless there is a reason to disagree with the same.

12. In view of the above, this Court is of the view that the judgment and order dated 16.11.2012 passed in WP(C) 1806/2009 and other similar orders (supra) on the issue regarding fixation of pay is required to be revisited by the respondent authorities. Accordingly, the respondent authorities are directed to revisit the same. It is provided that while considering the grievance of the petitioners, the respondent authorities would be guided by the judgment and order of this Court as aforementioned. It is further directed that the respondent authorities shall consider the same within a period of 2(two) months from the date of receipt of the copy of this order.

13. In terms of the above, writ petition stands disposed of.

JUDGE

Comparing Assistant