

GAHC010183052024



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

Review.Pet./180/2024 in
WP(C)/5123/2020 (D/O)

DHIREN BHARALI AND 8 ORS
S/O. SRI DHANO RAM BHARALI, VILL. KAIHATI, P.O. SOLMARA, PIN-
781338, DIST. NALBARI, ASSAM.

2: JYOTISH CH. DAS
S/O. SRI GANGADHAR DAS
VILL. PATANI
P.O. HAJO
DIST. KAMRUP
ASSAM
PIN-781102.

3: HITESH DEKA
S/O. JOY CH. DEKA
R/O. DISPUR
GUWAHATI-06
DIST. KAMRUP (M)
ASSAM
PIN-781006.

4: BHUPEN BARUAH
S/O. LT. CHANDRA KR. BARUAH
R/O. NO.2 BANK COLONY
NORTH HAIBORGAON
P.O. HAIBORGAON
DIST. NAGAON
ASSAM
PIN-782002.

5: BHASKAR JYOTI BARUAH

S/O. LT. NARESWAR BARUAH
R/O. MADHUPUR

WORD NO.28
DIST. BISWANATH
ASSAM
PIN-784176.

6: MOUSUMI KAKATI
W/O. MR. KHAGESH DEKA
VILL. KETEKIBARI
P.O. TEZPUR
DIST. SONITPUR
ASSAM
PIN-784001.

7: JADAB CH. BARMAN
S/O. LT. JATINDRA MOHAN BARMAN
R/O. B.R. DEKA PATH
JALUKBARI
GUWAHATI-14
DIST. KAMRUP (M)
ASSAM
PIN-781013.

8: PRANAB KR. MARKARY

S/O. LT. LAKHESWAR MAKRARY
R/O. PADUM NAGAR PATH NO.2
P.O. BOIRAGIMATH
DIST. DIBRUGARH
ASSAM
PIN-786003.

9: GOBINDA RABHA

S/O. LT. DANDI RAVA
R/O. PACHIM BORAGAON
GUWAHATI-33
DIST. KAMRUP (M)
ASSAM
PIN-781033

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF
PANCHAYAT AND RURAL DEVELOPMENT, DISPUR, GUWAHATI-06.

2:THE COMMISSIONER

DEPTT. OF PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI-37.

3:THE SECRETARY

GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GUWAHATI-06.

4:THE SECRETARY

GOVT. OF ASSAM
DEPTT. OF FINANCE
DISPUR
GUWAHATI-06.

5:THE ACCOUNTANT GENERAL (A AND E)

ASSAM
BELTOLA
MAIDAMGAON
GUWAHATI-29

Advocate for the Petitioner : MR C GOSWAMI,

Advocate for the Respondent : SC, P AND R.D., SC, FINANCE DEPTT.,SC, AG

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.11.2024

Heard Shri C Goswami, learned counsel for the applicants, who by means of this application, has prayed for review of the judgment and order dated 05.08.2024 passed in WP(C)/5123/2020.

2. Also heard Shri B Sarma, learned Standing Counsel, AG appearing for the respondent no. 5.

3. The present review has been sought for in connection with the observation made by this Court in paragraph 13 of the aforesaid judgment whereby the benefit of the order was confined to those petitioners who were the petitioners in WP(C)/279/2015. For ready reference, paragraph 13 of the said judgment is extracted hereinbelow:

“13. In view of the aforesaid discussions, this Court is of the considered opinion that interest of justice would be served and the equities would be balanced if a direction is issued to give notional benefits to the petitioners at least from the date of expiry of 6 months from the judgment dated 15.05.2017 passed in WP(C)/279/2015 as it was the time prescribed for considering and giving such promotions. This Court is fortified by the fact that the eligibility of the petitioners is not in doubt as the Department had itself granted them the promotion on 10.01.2020 to the post of Assistant Engineer. It is made clear that the benefits to be granted to the petitioners would be only notional and they would not be entitled any back wages. Further, under the peculiar facts and circumstances, the present order would be confined only to the petitioners as the earlier direction passed by this Court on 15.05.2017 in WP(C)/279/2015 was only pertaining to them and accordingly, the present order would not be a precedent for any other candidates.”

4. Shri Goswami, learned counsel for the review petitioner has submitted that when the petition was allowed and the benefit appears to have been given to all the twelve numbers of petitioners, confining the same to only two out of those who were the petitioners in the earlier WP(C)/279/2015 may not be proper and therefore, a clarification be granted that such benefits be is given to all the petitioners in the

concerned WP(C)/5123/2020.

5. The aforesaid submission has been duly considered.

6. The order dated 05.08.2024 by which the writ petition was disposed of had taken into consideration the earlier direction passed by this Court on 15.05.2017 passed in WP(C)/279/2015 in which, there were only two numbers of petitioners. However, in the subsequent WP(C)/5123/2020, apart from those two petitioners, there were ten other petitioners. This Court had taken into consideration that the foundation of the case was based on the earlier direction passed by this Court vide judgment dated 15.05.2017 which pertains to only two numbers of writ petitioners. In view of the aforesaid facts and circumstances, this Court had taken a conscious decision and accordingly, directed that the order dated 05.08.2024 would be confined only to those petitioners who had earlier approached this Court in WP(C)/279/2015.

7. In view of the aforesaid circumstances, this Court is of the opinion that no case for review is made out in the instant application. Even otherwise, the powers to be exercised by this Court under review jurisdiction is a circumscribed one wherein only under limited conditions, such powers are to be exercised. In the instant case, none of those conditions exist and therefore, the instant petition is dismissed.

JUDGE

Comparing Assistant