

GAHC010025262018



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

Case No. : I.A.(Civil)/2845/2022

THE ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION AND 3
ORS.

REPRESENTED BY ITS CHAIRMAN

NIDHI BHAWAN

BASISTHA

LALMATI

NH-37

GUWAHATI-29.

2: THE SECRETARY CUM PROVIDENT FUND COMMISSIONER

THE ASSAM TEA PLANTATIONS PROVIDENT FUND AND PENSION FUND
SCHEME AND DEPOSIT LINKED INSURANCE SCHEME

NIDHI BHAWAN

BASISTHA

LALMATI

NH-37

GUWAHATI -29.

3: THE AUTHORIZED OFFICER

BOARD OF TRUSTEES

ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION

NIDHI BHAWNA

BASISTHA

LALMATI

NH-37

GUWAHATI -29.

4: THE RECOVERY OFFICER

ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION
GOLAGHAT ZONE

GOLAGHAT.
VERSUS

M/S. BOGIDHOLA TEA AND TRADING CO. PVT. LTD 2 ORS
REPRESENTED BY ITS DIRECTOR
HAVING ITS REGISTERED OFFICE AT BOGIDHOLA TEA ESTATE
P.O. LETEKUJAN
DIST. GOLAGHAT
ASSAM.

2:THE ASSISTANT LABOUR COMMISSIONER

GOLAGHAT.
3:THE DEPUTY COMMISSIONER
GOLAGHAT

DIST. GOLAGHAT.

Advocate for : SC
ATEPFO

Advocate for : MR. P K TIWARI appearing for M/S. BOGIDHOLA TEA AND
TRADING CO. PVT. LTD 2 ORS

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

08.02.2024

1. Heard Ms. G. Goswami, learned counsel for the applicant nos.1 to 4. Also heard Mr. P.K. Tiwari, learned Senior Counsel assisted by Mr. A.R. Gogoi, learned counsel for the respondent company.

2. The dispute in the present case is with regard to the arrear provident fund amount payable by the respondent company. While the case of the applicant nos.1 to 4 is that the respondent company is to pay approximately Rs.88.9 lakhs without calculating the interest, the stand taken by the respondents is that the

amount payable by the respondent company is approximately Rs.6/7 lakhs.

3. The respondents' counsel submits that while there is an issue with regard to the quantum of arrear provident fund to be paid by the respondents, the other issue pertains to the procedure to be followed in recovery of the alleged arrear amount.

4. The counsels for the parties have made submissions with regard to whether the mode of collection of the provident fund that has been undertaken by the applicants should be prospective or retrospective in nature, keeping in view the amended Section 15 of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955. However, during the course of arguments, counsels for the parties have agreed that the matter can be resolved, if the dispute between the parties with regard to the amount of provident fund payable by the respondents is resolved by a Court Commissioner, to be appointed by this Court.

5. Mr. P.K. Tiwari, learned Senior Counsel submits that as there is a lockout, all the documents of the company are sealed and unless an order is passed by this Court, to enable the respondents to take out documents in support of their claim, with regard to the payment of alleged arrears of provident fund, the Court Commissioner would not be able to resolve the dispute between the parties.

6. Accordingly, as per the consent of the parties, Mr. Justice P.K. Deka,

Retired Judge of the Gauhati High Court, is appointed as Court Commissioner to resolve the dispute, as to the actual amount of provident fund payable by the respondents to the applicant nos.1 to 4. The above being said, the State Government authorities shall permit the respondents to take out documents from the office of the respondent company, to enable the Court Commissioner to decide the dispute between the parties. However, the State Government authorities shall keep a record of the documents, including attested photocopies, that are taken out by the respondents, at the time of allowing them to take out the documents, which should be returned by the respondent company.

7. The Court Commissioner shall take a decision on the dispute between the parties preferably within 6 (six) months, from the date of giving consent on being appointed as a Court Commissioner and submit his decision to this Court. The Court Commissioner may also decide the remuneration that is to be paid to him prior to giving his consent for taking up the assignment.

8. I.A.(Civil) is accordingly disposed off.

JUDGE

Comparing Assistant