

GAHC010214702023



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

Case No. : WP(C)/5741/2023

AMNIKA THAOSEN AND 8 ORS
D/O- LATE BAIDYANATH THAOSEN,
R/O- VILL. MAIBANG,
P.O. AND P.S.- MAIBANG,
DIST.- DIMA HASAO, ASSAM,
PIN- 788831.

2: ANITA RANI PAUL
W/O- LATE SUSHENDRA PAUL

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

3: MAYA RANI DAS
W/O- LATE PARESH CH. DAS

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

4: ANIMA BORAH
W/O- LATE PURNESWAR BORAH

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

5: SAMU CHETRI
S/O- LATE DILBAHADUR CHETRI

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

6: PRADIP NAMASUDRA
S/O- LATE SURESH NAMASUDRA

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

7: RATINDRA ROY
S/O- LATE PABITRA ROY

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

8: SHILPI PAUL
W/O- PARTHA SARATHI DEB

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831.

9: RANGPURNA THAOSEN
S/O- LATE NAIOBARAN THAOSEN

R/O- VILL. MAIBANG

P.O. AND P.S.- MAIBANG

DIST.- DIMA HASAO
ASSAM

PIN- 788831

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
HILLS AREA DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
PUBLIC WORKS ROADS DEPARTMENT
DISPUR
GUWAHATI-06.

4:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
N.C. HILLS AUTONOMOUS COUNCIL
DIMA HASAO
HAFLONG
ASSAM
PIN- 788819.

5:THE EXECUTIVE ENGINEER
P.W.D. (R AND B) MAIBANG DIVISION
DIST.- DIMA HASAO
ASSAM

PIN- 788831.

6:THE TREASURY OFFICER
HAFLONG
DIST.- DIMA HASAO
ASSAM

PIN- 788819.

7:THE TREASURY OFFICER
MAIBANG SUB TREASURY
MAIBANG
DIST.- DIMA HASAO
ASSAM

PIN- 788831

Advocate for the Petitioner : MR H TALUKDAR, MR. K D SARMA,MRS. M DEKA

Advocate for the Respondent : GA, ASSAM, SC, PWD,SC, DIMA HASAO,SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 03.10.2024

Heard Mr. H. Talukdar, learned Counsel for the petitioner. Also, heard Mr. C. Sarma, learned Standing Counsel, Dima Hasao, Ms. Toshisenla, learned Standing Counsel on behalf of Mr. R. Dhar, PWD, Mr. A. Chaliha, learned Standing Counsel, Finance Department, Ms. M. Bhattacharjee, learned Additional Senior Counsel for respondent no. 1.

2. By way of this application under Article 226 of the Constitution of India, the petitioner is seeking direction to command the respondent authorities to release the petitioner's entitlement i.e. arrear salary for the

period 01/08/2017 to 28/02/2020.

3. The facts of the case is that the petitioners were appointed on different dates before AFRBM period i.e. 1st September 2005, either as M.R labourer or Fixed Pay employees or Casual employees under the respondent no.5.

4. It is the specific case of the petitioners that in terms of the Judgment rendered by the Division Bench of this Court in W.A. No. 45 of 2014, the respondent no.5 by order dated 29/06/2019 brought the petitioners to the Minimum Pay Scale and has been paying the same w.e.f 01/03/2020. However, since the arrears w.e.f. 01/08/2017 to 28/02/2020 has not been paid, the petitioner approached this Court by filing W.P(C) No. 5160/2022 wherein, this Court by order dated 30/08/2022 directed the respondent No. 5 to submit a demand for budget allocation for payment of arrear salary. Thereafter, the respondent no.5 by letter dated 09/09/2022 submitted the said demand before the respondent no. 3, but the same was not accorded. Situated thus, present writ petition has been filed.

5. Heard the learned Counsels for both the parties and perused the material available on record.

6. Today when the matter has been called for admission, Mr. C. Sarma, learned Standing Counsel, Dima Hasao, submits the instructions received from the Office of the Executive Engineer, PWD (R&B), Maibang Division, Maibang, Dima Hasao, dated 01/10/2024, whereby it is informed that pending arrear salary as claimed in the instant petition is not yet paid due to the supplementary demand proposal being not yet sanctioned by

the Finance Department. A copy of the aforesaid instruction is reproduced hereunder for ready reference.

“Sir,

With reference to the subject cited above, I have the honour to inform you that Rajdeep Bodo had already drawn the pending arrear salary against 2023-2024 surplus salary budget. Therefore, there are no remaining pending salary that the claimant enjoys to.

On the other hand, against WP (C) No. 5160/2022 (AmnikaThaosen) &Ors v/s State of Assam & ors), pending arrear salary is not yet paid as the supplementary demand proposal is not yet sanctioned by the Finance Department. The undersigned as submitted supplementary demand to the higher authority several times but financial sanction yet not received. Hence, the department is unable to make the payment WP (C) No. 5166/2022 (SmtAmnikaThaosen& 8 ors v/s State of Assam & ors).

This is for favour of yours kind information and necessary action.”

7. Apparent reading of the instruction that the said arrear salary is not being released to the petitioner due to the non-sanction of the Finance Department.

8. In view of the aforesaid instruction received, this Court, in the interest of justice, is of the considered view that this Writ Petition can be disposed of with a direction to the respondent authorities to release the pending arrear salary due to the petitioners after necessary verification in accordance with law within a period of 3 (three) months from today.

9. With the aforesaid observation and direction this Writ Petition stands disposed of.

JUDGE

Comparing Assistant