

GAHC010224722021



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

**Case No. : WP(C)/7397/2021**

BALURAM GOGOI  
S/O LT. RANJIT GOGOI (DHARANI)  
R/O CHOWKHAMGHAT  
P.O. AND P.S. GHILAMARA  
DHAKUAKHANA LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 10 ORS.  
TO BE REP. BY THE PRINCIPAL COMMISSIONER AND SECRETARY TO THE  
GOVT. OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT  
DEPARTMENT, DISPUR, GUWAHATI-6, ASSAM

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

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
FINANCE DEPARTMENT (EC-II)  
DISPUR  
GUWAHATI-06  
ASSAM

4:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
DISPUR  
GUWAHATI-6  
ASSAM

5:THE ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
DISPUR  
GUWAHATI-6  
ASSAM

6:THE COMMISSIONER PANCHAYAT  
AND RURAL DEVELOPMENT DEPARTMENT  
ASSAM  
JURIPAR  
PANJABARI  
GUWAHATI-22  
ASSAM

7:THE JOINT SECRETARY TO THE GOVT. OF ASSAM  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
DISPUR  
GUWAHATI-06  
ASSAM

8:THE SECRETARY  
FINANCE (ECONOMIC AFFAIRS) DEPARTMENT  
DISPUR  
GUWAHATI-6  
ASSAM

9:THE JOINT DIRECTOR  
O/O THE COMMISSIONER PANCHAYAT AND RURAL DEVELOPMENT  
DEPARTMENT  
ASSAM  
JURIPAR  
PANJABARI  
GUWAHATI-22  
ASSAM

10:THE CHIEF EXECUTIVE OFFICER  
LAKHIMPUR ZILLA PARISHAD  
LAKHIMPUR  
P.O. AND P.S. LAKHIMPUR  
DIST. LAKHIMPUR  
ASSAM  
PIN-787001.

11:THE LAKHIMPUR ZILLA PARISHAD  
REP. BY ITS PRESIDENT  
LAKHIMPUR  
P.O. AND P.S. LAKHIMPUR  
DIST. LAKHIMPUR

ASSAM  
PIN-78700

**Advocate for the Petitioner** : MR. P BOIRAGI

**Advocate for the Respondent** : SC, P AND R.D.

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**19-02-2024**

Heard Mr. J. I. Borbhuiya, learned counsel for the petitioner and Mr. P. Handique, learned Standing Counsel, P&RD Department for the respondent Nos. 1, 4, 5, 6, 7, 9, 10 and 11. Also heard Mr. P. Nayak, learned Standing Counsel, Finance Department for the respondent Nos. 2, 3 and 8.

**2)** The case of the petitioner is that on his application dated 10.06.2005, the authorities in the Ghilamora Gaon Panchayat vide Resolution No.1/2 in its meeting held on 13.06.2005 decided to appoint him as a Tax Collector on temporary basis at a fixed pay of Rs. 500/- per month and accordingly, vide No.GGP/5/05-06 dated 22.06.2005, the President of said Ghilamora Gaon Panchayat appointed the petitioner as a Tax Collector on temporary basis at a fixed pay of Rs. 500/- per month. Accordingly, the petitioner joined his said service as a Tax Collector at Ghilamora Gaon Panchayat at a fixed pay of Rs. 500/- per month.

**3)** By a subsequent order dated 22.09.2005 under Memo No. GGP/6/2005-06, the petitioner was again appointed as a Tax Collector at a fixed pay of Rs. 500/- per month in said Ghilamora Gaon Panchayat and pursuant to such appointment, he continued as a Tax Collector of said Ghilamora Gaon

Panchayat.

**4)** In a writ petition filed by the petitioner along with 13 others from Lakhimpur District working as casual employees in various Gram Panchayats under the P&RD Department of the State approached this Court in WP(C) No. 5223/2015 praying for direction to the respondents therein including the P&RD Department as well as the Finance Department of the State to grant them the benefit as per the direction of the Hon'ble Division Bench of this Court dated 08.06.2017 in Writ Appeal No. 45/2014 (*State of Assam Vs. Upen Das and others*). The coordinate Bench of this Court on 31.05.2017 disposed of said WP(C) No. 5223/2015 preferred by the petitioner and 13 others directing the respondents therein to grant them such benefits as per the their entitlements in terms of the decision in the case of *Upen Das* (supra), noted above.

**5)** The P&RD Department initially sent a list of such casual workers relating to High Court cases in the P&RD Department seeking benefit as provided in the case of *Upen Das* (supra) for consideration to the Finance Department of the State including that of the petitioners of WP(C) No. 5223/2015 decided on 31.05.2017 from Lakhimpur District that contained the name of the petitioner.

**6)** The Finance Department by its Notification No. FEC(II)04/ 2014/414 dated 03.10.2019 observed that all such Muster Roll/Casual/Fixed pay/similarly placed workers shall be considered for the benefit as per the direction of the Hon'ble Division Bench of this Court in the case of *Upen Das* (supra) w.e.f., 01.04.1993, who are working regularly from 01.04.1993, but not extending such benefit as provided in the case of *Upen Das* (supra) to those who were engaged as such in deviation of the relevant provisions of the Assam Fiscal Responsibility & Budget Management (AFRBM) Act, 2005 that came into force w.e.f., 01.09.2005.

**7)** The Finance Department of the State accordingly asked the P&RD Department to reconsider the cases of such Muster Roll/Casual/Fixed pay/similarly placed workers in the said Department while forwarding consideration of their cases to get the benefit provided in the case of *Upen Das* (supra). This time the P&RD Department forwarded a list of 114 such Muster Roll/Casual/Fixed pay/similarly placed workers serving in various Zilla Parishads/Anchalik Panchayats/ Development Blocks and Gaon Panchayats, who were engaged prior to AFRBM Act came into force, which did not contain the name of the petitioner as he was engaged after the AFRBM Act came into force. Accordingly, the Finance Department on 13.12.2021 approved the said list of 114 workers forwarded to the P&RD Department and the P&RD Department on 14.12.2021 allowed those 114 Muster Roll/Casual/Fixed pay/similarly placed workers to draw fixed wages/remuneration of Rs.15,900/- per month with Dearness Allowances (DA) that will undergo revision whenever Pay Scale changes based on enhancement of DA and recommendation of Pay Commission along with Medical Allowances of Rs. 600/- per month, without granting such benefit to the petitioner.

**8)** Aggrieved with such action on the part of the respondents in the P&RD Department as well as Finance Department of the State, the petitioner has filed this writ petition on 21.12.2021.

**9)** During the deliberation of the matter, Mr. Handique, learned Standing Counsel, P&RD Department stated before the Court that by Notification No. FEC(II)80/2018/156 dated 16.09.2021 the Finance Department recalled its earlier decision of granting of minimum Pay Scale only to the Muster Roll/Casual/Fixed pay/similarly placed workers, who were engaged prior to coming into the force of AFRBM Act and the benefit provided in the case of *Upen Das*

(supra) has also been extended to such workers engaged after AFRBM Act came into force.

**10)** Mr. Handique, learned Standing Counsel, P&RD Department also placed a copy of the order dated 13.10.2023, passed by a Coordinate Bench of this Court in WP(C) No. 5540/2019 considering the prayer of such Casual Employees serving in the P&RD Department for the benefit as provided by the Hon'ble Division Bench of this Court in the case of *Upen Das* (supra).

**11)** Considering such submissions of the learned counsels for the parties, this writ petition is accordingly disposed of directing the Secretary to the Government of Assam in the Panchayat and Rural Development Department to forward the name of the petitioner in terms of the order dated 13.10.2023, passed by a Coordinate Bench of this Court in WP(C) No. 5540/2019 to the Finance Department of the State within 15 (fifteen) days from today for consideration of the case of the petitioner to grant him the benefit as been provided by the Hon'ble Division Bench of this Court in the case of *Upen Das* (supra) and as directed earlier by the Court on 31.05.2017 in said WP(C) No. 5223/2015, who was earlier left out from such benefit.

**12)** Thereafter, the Finance Department of the State shall pass necessary order granting benefit in terms of the direction of the Hon'ble Division Bench of this Court in the case of *Upen Das* (supra) to the petitioner as per his entitlement as well as in terms of the Finance Department's Notification No. FEC(II)80/2018/156 dated 16.09.2021 within a period of 30 (thirty) days from today, but it shall not be later than 30.03.2024, granting such benefit to the petitioner as per his entitlement in terms of the direction of the Hon'ble Division Bench of this Court in the case of *Upen Das* (supra).

**13)** As this order has been passed in presence of the learned Standing Counsels of P&RD Department as well as Finance Department of the State, the learned counsels shall immediately communicate to the respective respondent authorities to do the needful on their part.

**14)** The petitioner shall submit certified copy of this order before the Commissioner and Secretary to Government of Assam in the Panchayat and Rural Development Department as well as in the Finance Department of the State, obtaining necessary acknowledgements from them in that regard.

**15)** With the above observations and directions, this writ petition stands disposed of.

**16)** Copy of the order dated 13.10.2023, passed in WP(C) No. 5540/2019, placed before the Court today by Mr. P. Handique, learned Standing Counsel, P&RD Department be kept as part of the record.

**JUDGE**

**Comparing Assistant**