

GAHC010239482023



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

Case No. : WA/430/2023

SUDHENDU BHATTACHARJEE AND 23 ORS.

S/O - LATE SORAJ KUMAR BHATTACHARJEE, R/O VILL. - 2ND LINK ROAD,
LANE NO. 12, HOUSE NO. 7, P.O. AND P.S. -SILCHAR, DIST. - CACHAR,
ASSAM PIN NO - 788006.

2: RATNADIP NATH

S/O - LATE SUNIL KANTI NATH

R/O VILL. - BERENGA

P.O. AND P.S. -SILCHAR

DIST. - CACHAR

ASSAM

PIN NO - 788001

3: BIPUL ACHARJEE

S/O - LATE BHUPENDRA CHANDRA
ACHARJEE

R/O VILL. - TARAPUR PT-VII

SILCHAR

P.O

AND P.S. - TARAPUR

DIST. - CACHAR

ASSAM

PIN NO - 788003

4: SATYAJYOTI DEB

S/O - LATE JYOTIRMOY DEB

R/O VILL. - RAHMANPATTY

P.O. AND P.S. - SILCHAR

DIST. - CACHAR
ASSAM
PIN NO - 788001

5: SMT NURJAHAN BEGUM LASKAR
W/O - RAFIQUE UDDIN LASKAR

R/O VILL. - BALIGHAT

P.O. - ARUNACHAL
P.S -SILCHAR

DIST. - CACHAR
ASSAM.
PIN - 788025

6: SUDIPTA NARAYAN SIKIDAR
S/O - LATE SUDHANGSHU SEKHAR SIKIDAR

R/O VILL. - ATHALBASTI
SIBBARI ROAD

P.O. AND P.S. - SMCH
SILCHAR

DIST - CACHAR
ASSAM.
PIN - 788014

7: AMALENDU BARMAN
S/O - LATE RUDRA PRASHAD BARMAN

R/O VILL. - DHOLCHERRA

P.O. AND P.S. - KANAKPUR EAST

DIST - CACHAR
ASSAM.
PIN NO -

8: GAITHAW KABUI
S/O - LATE DUDUA KABUI

R/O VILL. - KALABIL

P.O. AND P.S. -SIBPUR

DIST - CACHAR
ASSAM.
PIN NO -

9: MANNA BARMAN
S/O - LATE DEBICHARAN BARMAN

R/O VILL. -JIBOINGRAM

P.O. - JIBOINGRAM
P.S. - DHOLAI
DIST. - CACHAR
ASSAM.
PIN NO - 788114

10: BIKRAMJIT CHAKRABORTY
S/O - LATE BISWANATH CHAKRABORTY

R/O VILL. - PUSPABIHAR LANE
HAILAKANDI ROAD

P.O. AND P.S. -SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788015

11: MILON UDDIN LASKAR
S/O - LATE SAMSUR UDDIN LASKAR

R/O VILL. - A.R. BARLASKAR LANE
MELA ROAD
MALUGRAM

P.O.AND P.S. -SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788002

12: MRINMOY NATH
S/O - LATE MONOMOCHAN NATH

R/O VILL. - TULAR GRAM PT- II

P.O. AND P.S. -SONAIMUKH

DIST. - CACHAR
ASSAM.
PIN NO -

13: SMT. ATASHI TARAFDAR DUTTA
D/O - LATE AMARENDRA KR. DUTTA

R/O VILL. - CACHAR HIGH SCHOOL ROAD
P.O. AND P.S. -SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788002

14: SAUMYABRATA BHATTACHARJEE
S/O - LATE HARENDRA KR. BHATTACHARJEE

R/O VILL. - SUBHASHNAGAR

P.O. AND P.S. -SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788004

15: SATYENDRA KUMAR YADAV
S/O - LATE MOTILAL GOALA

R/O VILL. - ITKHOLA

P.O. AND P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788002

16: PRABIR KUMAR KURMI
S/O - LATE JYONARAYAN KURMI

R/O VILL. - FAKIRTILLA

P.O. AND P.S. - BHOIRAKHAL

DIST. - CACHAR
ASSAM.
PIN NO - 788010

17: KISHALAYA BHATTACHARJEE
S/O - LATE KRSHNAKANTA BHATTACHARJEE

R/O VILL. - SHIVAJI NAGAR BYE LANE
SILCHAR
P.O. AND P.S. - SILCHAR.
DIST. - CACHAR
ASSAM.
PIN NO - 788006

18: SMT MOUSUMI BHATTACHARJEE
W/O - KISHALAYA BHATTACHARJEE

R/O VILL. - 1ST LINK ROAD
LANE NO.1
SILCHAR

P.O. AND P.S. - SILCHAR.
DIST. - CACHAR
ASSAM.
PIN NO - 788006

19: SMT APARNA NATH
D/O - LATE SUDHARMONI NATH

R/O VILL. - DULALGRAM

P.O. AND P.S. -DULALGRAM

DIST CACHAR
ASSAM.
PIN NO -

20: SMT RATNA RANI DAS
W/O -SRI GAUTAM PURKAYASTHA

R/O VILL. - RONGPUR
N.N. DUTTA ROAD
P.O. -RONGPUR

P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO - 788009

21: BHUMENDU BARMAN
S/O - LATE BHUDEB BARMAN

R/O VILL. -THALIGRAM

P.O. -THALIGRAM
P.S. -UDHARBOND

DIST. - CACHAR
ASSAM.
PIN NO -

22: BHASKAR BARMAN
S/O -LATE BHUPENDRA CH. BARMAN

R/O VILL. -JOYPUR
PT-LLL

P.O. AND P.S. - JOYPUR

DIST. - CACHAR
ASSAM.
PIN NO - 788107

23: BIMAL DHAR
S/O - LATE BIJIT KR. DHAR

R/O VILL. - KALINAGAR

P.O. AND P.S -KALINAGAR

DIST -HAILAKANDI
ASSAM.
PIN NO - 788025

24: SMT. BABLI KAR
D/O - LATE BADAL KAR

R/O VILL. - TULARGRAM

P.O. AND P.S. -SONAIMUKH

DIST. - CACHAR
ASSAM.
PIN NO

VERSUS

THE STATE OF ASSAM AND 20 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY OF THE GOVT.

OF ASSAM, DEPARTMENT OF GENERAL ADMINISTRATION (B), DISPUR,
GUWAHATI, ASSAM.

2:THE COMMISSIONER AND SECRETARY
DEPARTMENT OF FINANCE
GOVT. OF ASSAM
DISPUR
GUWAHATI
ASSAM

3:THE DEPUTY SECRETARY
TO THE GOVT. OF ASSAM
DEPARTMENT GENERAL ADMINISTRATION (B)
DISPUR
GUWAHATI
ASSAM

4:THE PRINCIPAL ACCOUNTANT GENERAL (A AND G)
MAIDAMGAON
BELTOLA
GUWAHATI.
PIN NO. - 781029

5:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR

P.O.
P.S. AND DIST. - CACHAR
ASSAM.
PIN NO. - 788001

6:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
SILCHAR

P.O.
P.S. AND DIST. - CACHAR
ASSAM.
PIN NO. - 788001

7:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
SILCHAR.
P.O.
P.S. AND DIST. - CACHAR
ASSAM.
PIN NO. - 788001

8:IN-CHARGE
PERSONNEL BRANCH (ESTABLISHMENT SECTION) CACHAR
SILCHAR

P.O.
P.S. AND DIST. - CACHAR
ASSAM.
PIN NO. - 788001

9:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
I/C SILCHAR
L.A. BRANCH
CACHAR
SILCHAR.

P.O.
P.S. AND DIST. - CACHAR
ASSAM. PIN NO. - 788001

10:THE ADDITIONAL DEPUTY COMMISSIONER
CACHAR
I/C LAKHIPUR
SUB-DIVISION
LAKHIPUR
CACHAR.

P.O.
P.S. - LAKHIPUR
DIST. - CACHAR
ASSAM.
PIN NO. - 788103

11:THE ELECTION OFFICER
CACHAR
SILCHAR.

P.O.
P.S. AND DIST. - CACHAR
ASSAM. PIN NO. - 788001

12:THE CIRCLE OFFICER
REVENUE CIRCLE
SADAR
SILCHAR
CACHAR.

P.O.
P.S. AND DIST. - CACHAR
ASSAM. PIN NO. - 788001

13:THE CIRCLE OFFICER
SONAI
REVENUE CIRCLE
SONAI.
P.O. AND P.S. - SONAI

DIST. - CACHAR
ASSAM.
PIN NO. - 788006

14:THE CIRCLE OFFICER
KATIGORAH REVENUE CIRCLE
KATIGORAH
CACHAR.
P.O.
P.S. - KATIGORAH

DIST. - CACHAR
ASSAM.
PIN NO. - 788805

15:THE SUPERINTENDENT
FCS AND CA
CACHAR
SILCHAR.
P.O.
P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO. - 788001

16:THE SUPERINTENDENT OF EXCISE
CACHAR
SILCHAR.
P.O.
P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO. - 788001

17:THE TREASURY OFFICER
CACHAR TREASURY
CACHAR
ASSAM.
P.O.
P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO. - 788001

18:THE TREASURY OFFICER
LAKHIPUR
CACHAR
ASSAM.
P.O.
P.S. - LAKHIPUR.
DIST. - CACHAR
ASSAM.
PIN NO. - 788103

19:THE LAKHIPUR TREASURY
SILCHAR
CACHAR

P.O. AND P.S. - SILCHAR.
DIST. - CACHAR
ASSAM.
PIN NO. - 788101

20:THE TREASURY OFFICER
NEW SILCHAR
SUB-TREASURY SILCHAR

P.O. AND P.S. - SILCHAR

DIST. - CACHAR
ASSAM.
PIN NO. - 788001

21:NIRANJAN CH. DAS
S/O -NARENDRA CHANDRA DAS

R/O VILL -DIDARKHOSH PART-I
PH-BONRAJ
P.O. - DIDARKHOSH

P.S. - SONAI

DIST -CACHAR
ASSAM.
PIN NO. - 78809

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 26/02/2024

Suman Shyam, J

This intra-court appeal is directed against the order dated 15/09/2023 passed by the learned Single Judge in WP(C) No. 4907/2023 whereby, a direction was issued for deleting the names of the present appellants, who were the petitioner nos. 2 to 25 in the writ petition, on the ground that they had a separate cause of action as compared to the writ petitioner no. 1, viz. Sri Siddhartha Sankar Chakraborty, thus permitting only the petitioner no.1 to pursue the writ petition.

The facts of the case, in a nutshell, are that the present appellants, and Sri Siddhartha Sankar Chakraborty, are all serving as Senior Assistants and posted in different Branches coming under the establishment of the District Commissioner (erstwhile Deputy Commissioner), Cachar, Silchar. Pursuant to the Revision of Pay (RoP) Rules, 2017 (*herein after referred to as the Rules of 2017*), benefit of increased pay scales was extended to all these Senior Assistants. However, by notification dated 04/05/2022 issued under Memo No. CPA.3/2017/PF/Pt-II/34 by the Personal Accounts Section in the establishment of the District Commissioner, Cachar, the pay increment granted to the said employees were withdrawn with effect from 01/04/2016. Aggrieved thereby, the 25 writ petitioners including the present appellants had approached this Court by filing the aforementioned writ petition.

The learned Single Judge was of the view that since all the writ petitioners were drawing different pay scales, hence, they had separate cause of action for approaching this Court. It was held that since the writ petitioner no. 1, viz. Sri Siddhartha Sankar Chakraborty had sworn the affidavit in support of the writ petition, hence, save and except the petitioner no. 1, none of the other 24 writ petitioners could maintain the writ petition. Having held as

above, by the impugned order dated 15/09/2023, the names of the writ petitioner nos. 2 to 25 i.e. the present appellants were directed to be deleted from the array of parties. While arriving at the aforesaid conclusion, the learned Single Judge had also observed that the writ petitioners had paid Court fee only for one petitioner.

Assailing the impugned order dated 15/09/2023, Mr. Purkayastha, learned counsel for the appellants has argued that all the writ petitioners including the present appellants were serving in similar capacity, under the different Branches coming within the establishment of the District Commissioner, Cachar. They were aggrieved by the common order dated 04/05/2022, by means of which, the increment earlier granted to them under the RoP Rules of 2017, was revoked. As such, this is not a case of separate cause of action but was a clear case where there was a common cause of action. As such, according to the learned counsel, the learned Single Judge has erred in law in directing the deletion of the names of the writ petitioner nos. 2 to 25.

Contending that the writ petition is still pending before the learned Single Judge, Mr. Purkayastha has prayed for setting aside the impugned order dated 15/09/2023 and to issue a direction for hearing of the pending writ petition on merit.

The learned departmental counsel as well as the learned counsel for the respondent no. 21 have submitted in one voice that they would have no objection if the relief prayed for in this appeal is granted by this Court and the writ petition is directed to be heard on merit.

From a careful examination of the materials on record, we find that the challenge made in the writ petition was in respect of the notification dated 04/05/2022, by means of which, the pay benefit given to all the appellants/writ petitioners was revoked by a common order. Under the circumstances, even if it is a fact that the appellants who are working in different Branches in the establishment of the District Commissioner, Cachar, are drawing different pay scales, even then, we are of the view that they did not have separate cause of action for approaching this Court. Rather, we are of the view that the writ petitioners/appellants have a common cause of action, which could be agitated in a writ petition jointly filed by them. We, therefore, find sufficient force in the submission of Mr. Purkayastha, that the appellants/writ petitioners have a common cause of action for

approaching this Court by filing WP(C) No. 4907/2023.

Situated thus, we are of the unhesitant opinion that the learned Single Judge was not correct in issuing the impugned order dated 15/09/2023 with a direction to delete the names of the petitioner nos. 2 to 25 from the array of parties in the writ petition.

Consequently, this writ appeal stands allowed.

The impugned order dated 15/09/2023 stands set aside.

This writ appeal is disposed of by providing that the writ petition being WP(C) 4907/2023, be heard on merit and disposed of with a reasoned order, as expeditiously as possible.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant