

GAHC010243042022



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

Case No. : WP(C)/7754/2022

BIREN DAS
S/O-LATE KAMDEV DAS ,
PERMANENT R/O- KANAK KUCHI, WARD NO-21,
P.O AND DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
PWD (BUILDING), DEPARTMENT, DISPUR, GUWAHATI-6

2:THE CHIEF ENGINEER
PWD (BUILDING)
ASSAM
CHANDMARI
GUWAHATI-03

3:THE SUPERINTENDING ENGINEER
PWD (BUILDING)
CIRCLE-I
FANCY BAZAR
GUWAHATI-01

4:THE EXECUTIVE ENGINEER
PWD
PCC
SUB DIVISION
DISPUR
GUWAHATI-06

5:THE ASTT. EXECUTIVE ENGINEER
PWD

PCC
SUB DIVISION
DISPUR
GUWAHATI-06

6:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-6

7:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA
GHY-2

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : SC, P W D

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

03.04.2024

Heard Shri AR Sikdar, learned counsel for the petitioner. Also heard Shri P. Nayak, learned Standing Counsel, PWD.

2. The facts projected in this writ petition is that the petitioner has been serving as Muster Roll Worker in the PWD since 14.03.1992. In this connection, a certificate dated 24.01.2006 has been annexed to the writ petition. It is the specific case of the petitioner that while 88 numbers of similarly situated Muster Roll Labourers were regularized in their services vide an order dated 05.10.2005, the petitioner was left out. It is submitted that the beneficiaries of the said order dated 05.10.2005 were engaged prior to 01.04.1993 and few of them are also junior to the petitioner. Accordingly, the petitioner has prayed for

regularization of his service in terms of the benefits given to the similarly situated persons vide the order dated 05.10.2005.

3. The contention of the Department represented by Shri P. Nayak, learned Standing Counsel, on the other hand, is that the issue has been settled by the Hon'ble Division Bench of this Court in the case of ***State of Assam Vs. Upen Das*** reported in ***2017 4 GLR 493***. Shri Nayak, learned Standing Counsel has referred to the issue which was under consideration as reflected in the paragraph 14 of the judgment. The directions passed by the Hon'ble Division Bench in the said judgment while allowing the appeal are extracted hereinbelow-

“22. It is, however, heartening to learn that the State Government has agreed not to terminate the Muster Roll, Work Charged and similarly placed employees working since last more than 10 years (not in sanctioned post) till their normal retirement, except on disciplinary ground or on ground of criminal offences. The State Government has also agreed to enlist such employees in Health and Accidental and Death Insurance Scheme, which will be prepared in consultation with the State Cabinet. We appreciate this positive stand of the State Government taken as welfare measures for the betterment and security of the employees, in question. We, accordingly, direct the State Government to implement the measures without further delay. Besides this, we, in the light of decision of the Supreme Court in [State of Punjab vs. Jagjit Singh](#), (2017) 1 SCC 148, also direct the State Government to pay minimum of the pay scale to Muster Roll workers, Work Charged workers and similarly placed employees working since last more than 10 years (not in sanctioned post) with effect from 1.8.2017.

23. For these reasons, we are of the view that in the fact situation of the case, Muster Roll workers, Work Charged workers and Casual workers are not entitled for regularization of their services with consequential benefits, such as, pension etc. We, accordingly, subject to our direction in paragraph 22 of the judgment, allow the appeal and set aside the impugned judgment and order dated 20.12.2013 passed by the learned Single Judge.”

4. This Court is of the considered opinion that when the issue involved in this case is squarely covered by the aforesaid judgment, there is no scope or requirement to reopen the said issue. Accordingly, this writ petition is disposed of by directing that the observations made by the Hon'ble Division Bench in the case of **Upen Das** (supra) would be squarely applicable to the case of the petitioner.

5. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant