

GAHC010264792018



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

Case No. : WP(C)/8268/2018

HEMANTA GOGOI AND 42 ORS.
S/O. LT. GIRIN GOGOI, VILL. BANMUKH GOHAIN GAON, P.O. BANMUKH,
P.S. SIVASAGAR, DIST. SIVASAGAR, ASSAM-785640.

2: MS. BOBY GOGOI
D/O. LT. GIRIN GOGOI
R/O. BOIRAGIMOTH
P.O. BOIRAGIMOTH
DIST. DIBRUGARH
ASSAM-786003.

3: MD. MUZIBUL KHAN
S/O. MD. MUKIBUL KHAN
R/O. AMOLAPATTY ROAD
P.O. MOHANGHAT
DIST. DIBRUGARH
ASSAM-786008.

4: BASANTA GOGOI

S/O. LT. GIRIN GOGOI
VILL. BANMUKH GOHAIN GAON
P.O. BONMUKH
DIST. SIVASAGAR
ASSAM-785640.

5: MD. SIRAJUDDIN AHMED

S/O. MD. FULBABA HUSSAIN
R/O. AMGURI GAON
P.O. METEKA
DIST. SIVASAGAR
ASSAM-785697.

6: RUPJYOTI BARUAH
S/O. LT. JAGANNATH BARUAH
R/O. MILAN NAGAR
BYE LANE-6
P.O. C.R. BUILDING
DIBRUGARH
DIST. DIBRUGARH
ASSAM-786003.

7: MS. JONALI GOGOI

D/O. LT. MAHANDRA GOGOI
VILL. BONMUKH GOHAIN GAON
P.O. BANMUKH
DIST. SIVASAGAR
ASSAM-785640.

8: HASAN AHMED

S/O. TAYAUDDIN AHMED
VILL. AND P.O. TINGKHONG
DIST. DIBRUGARH
ASSAM-786612.

9: RITTIK HAZARIKA
S/O. SRI MANORANJAN HAZARIKA
R/O. GOBIN SARMA PATH
DIBRUGARH
DIST. DIBRUGARH
ASSAM-786001.

10: GHANASHYAM DUTTA
S/O. MULA NATH DUTTA
VILL. BONMUKH GOHAIN GAON
P.O. BONMUKH
DIST. SIVASAGAR
ASSAM-785640.

11: ANUPAM DUTTA

S/O. SRI DHANIRAM DUTTA
R/O. RONGMORIA
PANITOLA
P.O. PANITOLA
DIST. TINSUKIA
ASSAM-786163.

12: TANJU BEGUM

D/O. NEJAMUDDIN AHMED
HCB ROAD
AMOLAPATTY
WARD NO. 8
DIST. SIVASAGAR
ASSAM-785640.

13: MD. SORIFUDDIN AHMED

S/O. MD. JALALUDDIN AHMED
R/O. JOYPUR TINIALI
P.O. JOYPUR
DIST. DIBRUGARH
ASSAM-786614.

14: ANGSHUMAN DAS

S/O. AKHYOY CHANDRA DAS
R/O. BISHNUNAGAR
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

15: BASAB DUTTA

S/O. HENADHAR DUTTA
R/O. AMOLAPATTY
SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

16: OMAR FARUK HUSSAIN

S/O. NAZIMUL HUSSAIN
R/O. AMGURI TINIALI
P.O. METEKA
DIST. SIVASAGAR
ASSAM-785697.

17: NION BARUAH

S/O. KAMAL CH. BARUAH
R/O. KHOWANG TINIALI
P.O. KHOWANG
DIST. DIBRUGARH
ASSAM-785669.

18: MD. AYAZ UDDIN AHMED

S/O. ALAUDDIN AHMED
R/O. DHAI ALI
WARD NO.1
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

19: PABAN DIHINGIA
S/O. SRI GUGESWAR DIHINGIA
VILL. PANBECHA DIHINGIA GAON
P.O. BETONI
DIST. SIVASAGAR
ASSAM.

20: MD. FARHANA HUSSAIN

C/O. NAZIMUL HUSSAIN
R/O. AMGURI TINIALI
P.O. METEKA
DIST. SIVASAGAR
ASSAM-785697.

21: MS. HIMAKSHI DAS

W/O. DEBEN CH. DAS
VILL. RUPOHI MUKH
P.O. BHOTIAPAR
DIST. SIVASAGAR
ASSAM-785667.

22: DIPANKAR RAJKHOWA
S/O. PUNESWAR RAJKHOWA
R/O. OLD AMOLAPATTY
P.O. NAMTIALI
DIST. SIVASAGAR
ASSAM-785684.

23: MD. JUNMONI GOGOI

D/O. SRI MAKHON GOGOI
R/O. MILAN NAGAR
P.O. C.R. BUILDING
DIST. DIBRUGARH
ASSAM-786003.

24: MUZIBUDIN AHMED

S/O. MD. JALAUDDIN AHMED
R/O. VILL. KHOTKHOTI
P.O. MORAN KHOTKHOTI
DIST. DIBRUGARH
ASSAM-785669.

25: AZIZUR RAHMAN

S/O. LT. ATAUR RAHMAN
VILL. NATUK GAON
P.O. MORANHAT
DIST. SIVASAGAR
ASSAM-785670.

26: ASHIF AHMED

S/O. MD. BINO AHMED
R/O. DHAI ALI
P.O. SIVSAGAR
DIST. SIVASAGAR
ASSAM-785640.

27: MD. GAYATRI BARUAH

D/O. JITEN CH. BARUAH
R/O. MANKOTA ROAD
P.O. C.R. BUILDING
DIST. DIBRUGARH
ASSAM-786003.

28: MUKUL NATH
S/O. SRI NABIN CH. NATH
P.O. C.R. BUILDING
DIST. DIBRUGARH
ASSAM-786003.

29: JITENDRA CHETIA
S/O. SRI KUKHESWAR CHETIA
VILL. ROMAI GAON
P.O. ROMAI
DIST. DIBRUGARH
ASSAM-786010.

30: NAYAN JYOTI BARUAH

S/O. SRI KAMAL CH. BARUAH
R/O. AHOM GAON
P.O. LAHOWAL

DIST. DIBRUGARH
ASSAM-786010.

31: PRANJAL PRATIM GOGOI

S/O. DILIP GOGOI
VILL. DIGBOI MOLIABARI
P.O. MOLIABARI
DIST. DIBRUGARH
ASSAM-786171.

32: UDAY SHANKAR BARUAH

S/O. JITEN BARUAH
R/O. MOHANGHAT
P.O. AMOLAPATTY
DIST. DIBRUGARH
ASSAM-786001.

33: MS. DULUMONI GOGOI

S/O. MAKHON GOGOI
R/O. DIBRUGARH
P.O. C.R. BUILDING
DIST. DIBRUGARH
ASSAM-786003.

34: MD. SAMIRUDDIN AHMED

S/O. FULBABA HUSSAIN
R/O. AMGURI TINIALI
P.O. METEKE
DIST. SIVASAGAR
ASSAM-785697.

35: CHITRA RANJAN KONCH

S/O. SRI TIRTHANATH KONCH
VILL. KATHPAR GAON
P.O. BANMUKH
DIST. SIVASAGAR
ASSAM-785640.

36: MUJIBUR RAHMAN
S/O. KHAIRUL RAHMAN
VILL. AND P.O. LAHDOIGARH
DIST. JORHAT
ASSAM-785700.

37: RUSTAM HAZARIKA
S/O. RAFIQUDDIN AHMED
R/O. NA-ALI
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

38: SAMSUDDIN AHMED

S/O. SAHABUDDIN AHMED
R/O. NA-ALI
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

39: NITUL GOGOI

S/O. LT. LAKHESWAR GOGOI
R/O. CHOWDANG GAON
P.O. DIKHARI KINAR
DIST. DIBRUGARH
ASSAM-785675.

40: NIRMAL GOGOI

S/O. LT. BONGSHIDHAR GOGOI
R/O. CHOWDANG GAON
P.O. DIKHARI KINAR
DIST. DIBRUGARH
ASSAM-785675.

41: ANGKHOMALA DAS

D/O. AKSHAY CH. DAS
R/O. BISHNU NAGAR
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

42: AFRINA BEGUM

D/O. TAMIZUDDIN AHMED
VILL. JENGONIKOTIA
P.O. SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640.

43: KALPANA BORAH

D/O. BISWA BORAH
R/O. AMOLAPATTYA
WARD NO.7
SIVASAGAR
DIST. SIVASAGAR
ASSAM-785640

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, AGRICULTURE
DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF AGRICULTURE

ASSAM
KHANAPARA
GUWAHATI-22.

3:THE DISTRICT AGRICULTURE OFFICER

DIBRUGARH
P.O.
P.S. AND DIST. DIBRUGARH
ASSAM-786001.

4:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

13-05-2024

Heard Shri I. H. Saikia, learned counsel for the petitioners whereas the Department of Agriculture is represented by Ms. R. Bora. Shri P. Nayak, learned

Standing Counsel appears for the Finance Department.

2. This matter was considered at length on the last occasion i.e. 25.04.2024 when the following order was passed:-

“ *Heard Shri IH Saikia, learned counsel for the petitioners.*

2. *The petitioners who are 43 in numbers are making a claim of payment of their wages in lieu of services rendered as Muster Roll Workers in the Agriculture Department. It is submitted that the petitioners were inducted in the services during the period 1993-96 and were getting their regular salaries. However in the year 2004 the Farms wherein the petitioners were working were leased out by the Government and thereafter the petitioners were engaged under different Block Agriculture Officers and District Agriculture Officers. The wages have however not been paid since 2004.*

3. *The petitioners had approached this Court earlier by filing writ petitions including WP(C)/4179/2014 wherein there were directions to examine the claims. It is submitted that though a finding was given that there were no authentic documents, there was also an admission that because of the flood, the documents could not be retrieved. Be that as it may, the claims were rejected vide an order dated 16.08.2018 which is the subject matter of challenge.*

4. *The petitioners have relied on two documents annexed at pages 142 and 143 of the writ petition and has submitted that there is an admission by the Director of Agriculture regarding their continuous service.*

5. *Ms. R. Bora, learned Standing Counsel, Agriculture Department has however submitted that the authenticity of the said documents have been doubted and the said stand has been categorically taken in the additional affidavit filed on 11.08.2023 by the respondent no. 2. By referring to the pleadings made in paragraphs 6 and 7, the learned Standing Counsel has also referred to two documents annexed as Annexure IV and V and has submitted that so called admission by the Director of Agriculture pertains to 7 nos. of other Muster Roll Workers and there has been a fabrication of the documents.*

6. *Shri Saikia, learned counsel for the petitioners however submits that such allegations are incorrect which is also substantiated by the statements made in the additional affidavit that further verification would be required.*

7. *To quell any doubts, the learned Standing Counsel, Agriculture Department is directed to obtain the concerned records from the Office of*

the Agriculture Officer pertaining to issuance of the letter Nos. DBR/Agri/MR/2017-18/48 dated 09.01.2018 as well as DBR/Agri/MR/2017-18/49 dated 09.01.2018. Clarifications / instructions is also directed to be taken towards issuance of letter No. Agri/Esstt./8105/2014-15/231 dated 28.12.2017 said to be issued by the Director of Agriculture, Assam.

8. As requested, list this case on 13.05.2024.

9. It is made clear that if the allegation of fabrication appears to be prima facie substantiated, this Court would pass appropriate directions including lodging of criminal proceeding."

3. In accordance with the aforesaid direction, the records in original of the Office of the Directorate as well as the Issue Register of the Dibrugarh District Office have been produced.

4. So far as the controversy regarding the aforesaid two letters mentioned in paragraph 7 of the earlier order is concerned, this Court has noticed that apart from the mention of a date by the District Office, it appears that separate letters were issued by the Directorate with regard to 7 numbers and 43 numbers of Muster Roll Workers. While the letter pertaining to 7 numbers of Muster Roll Workers is numbered Agri/Esstt/8105/2014-15/228 dtd.15.12.2015, the one pertaining to 43 Muster Roll Workers is numbered Agri/Esstt/8105/2014-15/231 dtd.28.12.2017. It is the second letter wherein the date has been wrongly written as 15.12.2017 in the reply communication made by the District Agriculture Officer dtd. 09.01.2018.

5. The controversy however would not end with that. This Court has verified from the record that a communication number JDA(ER-II)/Tsk/Esstt-C/NR/2017/97 dtd. 01.12.2017 was made by the Joint Director of Agriculture, Tinsukia on the subject of 50 numbers of Muster Roll Workers. In the said communication made to the Director, a clear distinction was made between 7

numbers of Muster Roll Workers who were stated to be serving the Department, though without any remuneration and the remaining 43 were placed in various offices of the district like BAO Offices, farms which are no longer in existence. It appears that without properly taking into consideration the findings given in the said communication dated 01.12.2017, the Director of Agriculture had issued two letters, one for 7 numbers of Muster Roll Workers who were stated to be working and the other for 43 numbers of Muster Roll Workers (petitioners) who were stated to be not working.

6. Shri Saikia, the learned counsel for the petitioners on a specific query regarding their continuous service has referred to the averments made in paragraph-4 of the writ petition, more specifically the last sentence which reads as follows:-

“On the other hand, all the petitioners are working continuously under the respondent authorities.”

7. This Court has however on examination has found that the said averment has been verified in the affidavit as being true to the information derived from the records.

8. A writ proceeding, unlike a civil proceeding does not have the procedure for adducing evidence through witnesses and cross-examination and therefore the affidavit accompanying the writ petition is of paramount importance. This Court is of the opinion that a communication wrongly issued by one of the authorities, which is clearly contrary to the materials, will not bestow any right to the petitioners who claim the benefit of regularization of service.

9. Shri Saikia, the learned counsel for the petitioners has tried to rely upon a communication dated 09.04.2018 contending that the position has been explained. However, on a close perusal, this Court has noticed that the said communication has been issued by one Officer after his retirement and there was also no occasion for issuing the same. Therefore, the said communication cannot be taken cognizance of.

10. This Court is therefore of the opinion that the petitioners have failed to make out any grounds for interfering with the impugned order dated 16.08.2018 passed by the Director whereby the claim of the petitioners for payment of the wages has been rejected. As there is nothing on record to suggest that the petitioners were rendering their service, the aforesaid claim appears to have been rightly rejected.

11. Writ petition accordingly stands dismissed.

12. The records are handed over back to the learned Standing Counsel.

JUDGE

Comparing Assistant