

GAHC010284272023



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

Case No. : WP(C)/7438/2023

EBADUR RAHMAN
S/O- LATE ABDUL JALIL,
VILLAGE AND P.O.- GOPALNAGAR,
P.S. AND DISTRICT- HOJAI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
PANJABARI
GUWAHATI-37.

4:THE CHIEF EXECUTIVE OFFICER
HOJAI ZILLA PARISHAD
P.O. AND DISTRICT- HOJAI
ASSAM

PIN- 782435.

5:THE BLOCK DEVELOPMENT OFFICER
BINNAKANDI DEVELOPMENT BLOCK

P.O.- BINNAKANDI
DISTRICT- HOJAI

ASSAM
PIN- 782435.

6:THE SECRETARY
GOPALNAGAR GAON PANCHAYAT
VILLAGE AND P.O.- GOPALNAGAR

DISTRICT- HOJAI
ASSAM

PIN- 782435

Advocate for the Petitioner : G UDDIN

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

09.04.2024

Heard Mr. G. Uddin, learned counsel for the petitioner. Also heard Mr. P. Handique, learned Standing Counsel, P&RD Department.

2. The learned counsel for the petitioner submits that the petitioner is appointed and working as Tax Collector on casual basis in the Gaon Panchayat under the jurisdiction of the respondent No. 7, prior to 01.09.2005. The petitioner's case is that even though he has been working as Casual Workers prior to 01.09.2005, his name is not included in the Pre Assam Fiscal Responsibilities Budget Management (AFRBM) list.

3. The petitioner's counsel submits that those persons, whose names are included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list, prepared by the Department on 01.01.2020, are entitled to the benefits of minimum regular scale of pay, in terms of the Judgment & Order dated 08.06.2017 passed by the Division Bench of this Court in W.A. No. 45/2014, "State of Assam & Ors. Vs. Sh. Upen Das & 836 Ors".

4. It is submitted on behalf of the petitioner that his name should be included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list prepared by the Department on 01.01.2020.

5. Mr. P. Handique, learned counsel appearing for the P&RD submits that the respondent authorities will have to verify the appointment order of the petitioner and also take the approval of the Finance Department for inclusion of

their names in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list, provided they survive the scrutiny.

6. Upon consideration of the rival submissions, it is seen that since the present issue involves disputed questions of fact, this Court is of the view that the matter should be decided by the respondent authorities by examining the individual claims. Accordingly, the petitioner is given the liberty to file individual representation, annexing his appointment order, within a period of 2 (two) weeks from today. The representations should be addressed to the respondent No. 2, who shall thereafter examine the petitioner's claims and thereafter take a decision on the same, as to whether the petitioner can be included in the Pre-Assam Fiscal Responsibilities Budget Management (AFRBM) list prepared by the Department on 01.01.2020.

7. The entire exercise should be carried out within a period of 6 (six) months from the date of receipt of a certified copy of this order along with the individual representation submitted by the petitioner.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant