GAHC010003712026

2026:GAU-AS:16407

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

Case No. : WP(C)/851/2026

JYOTSHNA MUCHAHARY AND ANR
WIFE OF- DIPEN DAIMARY,
RESIDENT OF- VILL- P.O.-JALAGAON, P.S.-SIMLA, DIST- BAKSA, ASSAM -781373.

2: GUNAJIT DAS

SON OF- SIDDHI RAMDAS

RESIDENT OF- VILL- JALAHALIGURI
P.O.-JALAHGHAT
DIST - BAKSA
ASSAM- 781327

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE LEGAL REMEMBRANCER AND SECRETARY TO THE GOVERNMENT OF ASSAM,DISPUR, GUWAHATI, KAMRUP (M),ASSAM -781006.

2:THE REGISTRAR GENERAL
GAUHATI HIGH COURT.

3:THE REGISTRAR (ADMIN)- CUM - IN CHARGE
CENTRALISED RECRUITMENT
GAUHATI HIGH COURT

4:THE DISTRICT AND SESSIONS JUDGE

BAKSA
ASSAM-781372.

5:THE CHIEF ADMINISTRATIVE OFFICER

OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BAKSA
ASSAM-781372

6:SRI KAPIL DAS

JUNIOR ADMINISTRATIVE ASSISTANT
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BAKSA
ASSAM-781372.

7:SRI DHARMENDRA DAS

JUNIOR ADMINISTRATIVE ASSISTANT
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BAKSA
ASSAM -781372.

8:SRI MINTU TALUKDAR

JUNIOR ADMINISTRATIVE ASSISTANT
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BAKSA
ASSAM -781372.

9:SRI HITESH KALITA

JUNIOR ADMINISTRATIVE ASSISTANT
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
BAKSA
ASSAM- 78137

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. B.P. Borah, Advocate

For the Respondent(s) : Mr. K. Gogoi, Addl. Sr. Govt. Advocate
: Ms. S. Sarma, Standing Counsel

- Date on which Judgment was reserved : NA
- Date of Pronouncement of Judgment : **05.11.2026**
- Whether the pronouncement is of

the Operative Part of the Judgment : NA

- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. B.P. Borah, the learned counsel for the Petitioners. Mr. K. Gogoi, the learned Additional Senior Government Advocate appears on behalf of the Respondent No. 1 and Ms. S. Sarma, the learned Standing Counsel appears on behalf of the Respondent Nos. 2 to 5.

2. None appears on behalf of the Respondent Nos. 6 to 9.

3. The present writ petition has been filed challenging the final gradation list of the Ministerial Staff, i.e., Junior Administrative Assistants (hereinafter referred to as "JAA") in the Office of the District and Sessions Judge, Baksa at Mushalpur dated 21.11.2024.

BRIEF FACTS

4. The brief facts of the instant case as emerge from the materials on record are that on 07.09.2015, an Advertisement was issued by the Registrar (Administration)-cum-In-Charge, Centralized Recruitment for filling up 397 posts of Computer Typist in various districts of the State of Assam. For the district of Baksa,

9 posts were to be filled up. The Petitioners participated pursuant to the said Advertisement dated 07.09.2015.

5. Pursuant to the said selection, a Notification was issued on 08.06.2017 wherein the Petitioners were selected for the posts of Computer Typist. The Petitioner No. 1 was at Serial No. 1 amongst the candidates under the Unreserved category and the Petitioner No. 2 was at Serial No. 1 amongst the candidates selected under the OBC category.

6. Subsequent thereto, another Advertisement was issued on 28.08.2017 for filling up various posts of LDA (Bench Assistant)/LDA-cum-Typist/Copyist in the District Court of Baksa. A select list was issued on 29.11.2017 wherein the private Respondents were selected.

7. On 06.01.2018, the Petitioner Nos. 1 and 2 were appointed as Computer Typists. On the same date, vide another order dated 06.01.2018, the private Respondents were also appointed. Both the Petitioners and the private Respondents joined the establishment of the District and Sessions Judge, Baksa on 06.01.2018.

8. At this stage, it is relevant to mention that vide Notification

dated 16.09.2024, the posts of LDA / Typist / Copyist / Computer Typist were re-designated as Junior Administrative Assistant (JAA). Pursuant thereto, a draft gradation list was published on 28.10.2024. Both the Petitioners filed objections to the said draft gradation list.

9. Subsequent thereto, in the Minutes of the Meeting held on 23.10.2024 in the office chamber of the District and Sessions Judge, Baksa, it was resolved that the *inter se* seniority between the LDA (Bench Assistant)/LDA-cum-Typist/Copyist and Computer Typist would be decided on the basis of the marks obtained by them in their respective selection processes. It was further resolved that insofar as the LDA (Bench Assistant)/LDA-cum-Typist/Copyist are concerned, the marks obtained in the viva voce would not be counted, whereas insofar as the Computer Typists are concerned, the marks obtained in the skill test would not be counted for ascertaining their respective merit positions in the select lists so that the *inter se* seniority between the Petitioners and the private Respondents could be decided. It is further seen from the said Minutes of the Meeting that insofar as those selected pursuant to the select list dated 29.11.2017, i.e., the private Respondents are concerned, the criteria set out in Serial No. (III) of the Notification dated 14.10.2020 would be applied.

10. On the basis of the decision taken in the Minutes of the Meeting dated 23.10.2024, the final gradation list was prepared on 21.11.2024 whereby the private Respondents were placed above the Petitioners.

11. The Petitioners, being aggrieved, filed a writ petition before this Court which was registered and numbered as WP(C) No. 505/2025. In the said writ proceeding, the final gradation list dated 21.11.2024 was challenged. However, during the course of the proceedings, the Minutes of the Meeting dated 23.10.2024 were produced by the Gauhati High Court. Under such circumstances, this Court permitted the Petitioners to withdraw the writ petition with liberty to assail the final gradation list as well as the Minutes of the Meeting dated 23.10.2024 vide order dated 04.12.2025. Accordingly, the Petitioners have again approached this Court by filing the present writ petition on 07.01.2026.

12. This Court issued notice on 16.02.2026 and further observed that any promotion made on the basis of the impugned gradation list shall be subject to the outcome of the writ petition.

13. The records reveal that the Respondent Nos. 4 and 5 filed their affidavit-in-opposition thereby supporting the Minutes of the

Meeting dated 23.10.2024 as well as the final gradation list dated 21.11.2024.

14. The Petitioners also filed an affidavit-in-reply thereby reiterating and reaffirming the statements made in the writ petition and denying the various statements and averments made in the affidavit-in-opposition filed by the Respondent Nos. 4 and 5.

SUBMISSIONS MADE BY THE LEARNED COUNSELS FOR THE PARTIES

15. Mr. B.P. Borah, the learned counsel appearing on behalf of the Petitioners referring to Rule 12 of the Assam District and Sessions Judges Establishment (Ministerial) Service Rules, 1987 (for short, "the Rules of 1987") submitted that the service holders under the Rules of 1987 are regulated by Rule 12 of the Rules of 1987. The learned counsel submitted that a perusal of Rule 12(i) of the Rules of 1987 would show that in the Lower Division Cadre, seniority shall be determined according to the date of appointment, if the person joins within 15 days of receipt of the order of appointment.

16. The learned counsel for the Petitioners submitted that where more than one person is appointed on the same date, their *inter se* seniority shall be determined according to their positions in the

merit list prepared by the District and Sessions Judge as mentioned in the Note below Clause (a) of Sub-Rule (5) of Rule 6 of the Rules of 1987. The learned counsel further submitted that the proviso to Rule 12(i) of the Rules of 1987 provides that those who have been directly recruited would be senior to those who have been promoted to the post of Lower Division Assistant and those who have been promoted to the post of Lower Division Assistant would be senior to those who have been promoted from Grade-IV to the post of Lower Division Assistant. The learned counsel further submitted that the said Rule is silent as to what course of action should be taken wherein selections are carried out separately, separate appointment orders are issued on the same date and the persons joining on the same date.

17. The learned counsel for the Petitioners submitted that this vacuum is filled up by the Notification dated 14.10.2020 inasmuch as Clause (III) thereof makes it clear that in such circumstances, the date of birth should be taken into consideration. The learned counsel further submitted that the impugned Minutes of the Meeting are completely misconceived inasmuch as the Respondent Authorities have adopted a criterion which is not only foreign to the Rules of 1987 and the Notification dated 14.10.2020, but is also contrary to the said Notification, inasmuch as Clause (III) of the

Notification duly takes care of the situation arising in the present case.

18. The learned counsel for the Petitioners, therefore, submitted that this is a fit case wherein this Court should interfere with the impugned Minutes of the Meeting dated 23.10.2024 as well as the final gradation list dated 21.11.2024 and issue appropriate directions for recasting the final gradation list insofar as the cadre of JAA in the office of the District and Sessions Judge, Baksa is concerned.

19. Ms. S. Sarma, the learned Standing Counsel for the Gauhati High Court on the other hand submitted that the Petitioners herein were appointed as Computer Typists, whereas the private Respondents were appointed as LDA (Bench Assistant) / LDA-cum-Typist / Copyist and therefore, the only manner in which their seniority can be looked into is in terms of Rule 12 of the Rules of 1987, i.e., persons having appointment orders of the same date and joining on the same date, their seniority have to be as per their *inter se* merit in the selection processes.

20. The learned Standing Counsel for the Gauhati High Court referring to Rule 12(i) of the Rules of 1987 further submitted that

the said provision mandates that *inter se* seniority shall be determined according to the positions in the merit list and as such taking into consideration that for the purpose of selection processes for Computer Typists and for LDA(Bench Assistant)/LDA-cum-Typist/Copyist are different insofar as the skill test and viva voce are concerned, the Respondent Authorities in the Minutes of the Meeting dated 23.10.2024 decided to take into consideration only the marks obtained in the written examination and as such, there appears to be no infirmity in the decision so taken. The learned Standing Counsel further submitted that the Notification dated 14.10.2020 has been duly applied insofar as the *inter se* merit amongst the private Respondents are concerned.

ANALYSIS AND DETERMINATION

21. I have heard the learned counsels appearing on behalf of the parties and have perused the materials on record.

22. From the materials on record, it is apparent that pursuant to a selection process initiated vide advertisement dated 07.09.2015, the Petitioners herein were selected and the select list was published vide Notification dated 08.06.2017. It is also seen that pursuant to another recruitment process initiated after publication

of the select list dated 08.06.2017, i.e., by way of an advertisement dated 28.08.2017, the private Respondents were selected vide the select list dated 29.11.2017.

23. It is of importance to note that the Petitioners herein were appointed by a separate order dated 06.01.2018 and the private Respondents were also appointed on the same date, i.e., 06.01.2018 by a separate order.

24. The Notification dated 16.09.2024 issued under the Orders of the Governor is of significant relevance as the posts of LDA / Typist / Copyist /Computer Typist were re-designated as Junior Administrative Assistant (JAA). Under such circumstances, the posts held by the Petitioners as well as the private Respondents were all re-designated as Junior Administrative Assistant.

25. Rule 12(i) of the Rules of 1987 deals with the aspect of seniority. Insofar as the Lower Division Cadre is concerned, Rule 12(i) of the Rules of 1987 mandates that seniority shall be determined according to the date of appointment. In other words, merely because of the fact that the Petitioners were selected pursuant to a selection proceeding initiated in 2015 and that their select list was published even before the Advertisement issued

pursuant to which the private Respondents participated and were subsequently selected would have no relevance. The relevant aspect would be only the date of appointment or the appointment order.

26. In the instant case, the Petitioners as well as the private Respondents were appointed by separate orders dated 06.01.2018.

27. A further perusal of Rule 12(i) of the Rules of 1987 would show that when more than one person are appointed on the same date, their *inter se* seniority shall be according to their positions in the merit list prepared by the District and Sessions Judge as mentioned in Note below Clause (a) of Sub-Rule (5) of Rule 6 of the Rules of 1987. In other words, what is conceived is when more than one person is appointed on the same date either by a single order or separate orders their *inter se* seniority would be as per their position in the merit list prepared. It is of importance to note that a perusal of the Note below Clause (a) of Rule 6(5) of the Rules of 1987 speaks of one list to be prepared in the order of merit which shall be valid for one year unless extended.

28. In the instant case, the Petitioners and the private Respondents were appointed pursuant to two separate and distinct

selection processes in completely different disciplines, one being Computer Typist and the other being LDA (Bench Assistant)/LDA-cum-Typist/Copyist. The Petitioners and the private Respondents, therefore, cannot be equated or considered to have been appointed pursuant to a single select list or merit list. Therefore, the question of adopting the procedure mentioned in Rule 12(i) of the Rules of 1987 whereby the *inter se* seniority between the appointees of the same date are based on their respective positions in the select list would not arise in the present case.

29. Let this Court now refer to the Notification dated 14.10.2020 which appears to have been issued in exercise of the powers under Article 235 of the Constitution. In terms with the said Notification, aspects which were not contemplated under Rule 12 of the Rules of 1987 were sought to be filled up. The reasons for doing so appears to be on account of the selections were held through a Centralized Recruitment Cell of the Gauhati High Court rather than the manner and procedure envisaged under the Rules of 1987. The Notification dated 14.10.2020, being relevant, is reproduced hereinunder:

"***THE GAUHATI HIGH COURT AT GUWAHATI***
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
NOTIFICATION

No. HC.XXXVII-21/2017/271 /R.Cell Dated Guwahati 14th of October, 2020.

The Hon'ble High Court has been pleased to notify that all LDAs, Copyists, Typists and Computer Typists working in the subordinate courts of Assam, who possess the minimum educational qualification under the existing rules, be treated as equivalent for the purpose of promotion to UDA, irrespective of whether they were selected through the common/centralized recruitment process or through the recruitment processes done earlier at the district level.

The appointing authorities, in the subordinate Court establishments of Assam, are hereby directed to prepare combined gradation lists for LDA, Copyists, Typists and Computer Typists working in their establishments, based on the following criteria:

(I) An employee who has joined the service earlier shall be placed above those who have joined later.

(II) Inter-se seniority of the employees, who have joined together, shall be determined by their merit position in the select list and

(III) In all other cases, the inter-se seniority of the employees shall be decided based on their dates of birth. An employee who is senior in age shall also be treated as senior in service.

Further, the outcome of the promotional processes which have been completed till date, shall not be affected by this notification.

By Order,

(R. Baruah)

Registrar (Admin)-cum

In-Charge, Centralized Recruitment

Memo No. HC.XXXVII-21/2017/271A /R.Cell ***Dated 14.10.2020"***

30. A perusal of the said Notification dated 14.10.2020 would show that certain semblances of Rule 12(i) of the Rules of 1987 was retained in Clauses (I) and (II) of the Notification. Clause (III), however, refers to a situation where Clauses (I) and (II) cannot be applied, i.e., in respect to all other cases which in the opinion of this Court would include exigencies where persons have been appointed on the same date and have joined on the same date pursuant to separate selection processes. In terms with Clause (III) of the Notification, the date of birth assumes importance.

31. It is the opinion of this Court that taking into consideration that the Petitioners and private Respondents were selected vide separate selection proceedings and the criteria for selection being different; the *inter se* seniority between the Petitioners and the private Respondents have to be worked out in terms with Clause (III) of the Notification dated 14.10.2020.

32. At this stage, this Court would also hasten to clarify that

insofar as the *inter se* seniority amongst the private Respondents are concerned, as they were selected on the basis of a single merit list, their *inter se* seniority has to be determined in terms of Rule 12(i) of the Rules of 1987 read with Clause (II) of the Notification dated 14.10.2020.

33. This Court also finds it pertinent to observe that the modus adopted by the members present at the Minutes of the Meeting dated 23.10.2024 to ascertain the *inter se* seniority between the Petitioners and the private Respondents is a concept completely foreign to the Rules of 1987 as well as the Notification dated 14.10.2020. Under such circumstances, the Minutes of the Meeting cannot be sustained in law.

34. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The impugned Minutes of the Meeting dated 23.10.2024 is hereby set aside and quashed.

(ii) The final gradation list dated 21.11.2024 insofar as the cadre of Junior Administrative Assistant of the establishment of the District Judiciary, Baksa is concerned is also set aside and quashed.

(iii) The Respondents herein, more particularly the Respondent No. 4 is directed to recast the *inter se* seniority in the cadre of Junior Administrative Assistant in the establishment of the District and Sessions Judge, Baksa in terms of the observations made in the body of the present judgment.

(iv) For the sake of clarity, this Court further reiterates that insofar as the *inter se* seniority between the Petitioners and the private Respondents are concerned, Clause (III) of the Notification dated 14.10.2020 would apply. However, the *inter se* seniority between the Petitioners as well as between the private Respondents are concerned, Rule 12(i) of the Rules of 1987 read with Clause (II) of the Notification dated 14.10.2020 shall apply.

(v) There shall be no order as to costs.

JUDGE

Digitally signed by Satyam Sharma
Date: 2026.11.10 06:25:24 +05'30'
Comparing Assistant