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

Case No. : WA/325/2026

RUPESHWAR SAIKIA AND 8 ORS
S/O LATE REWAI SAIKIA, VILL. NEW SALIA GAON, P.O. SATRIA GOTANAGAR, P.S. PULIBAR, PIN 785006, NAME OF THE BOARD JORHAT MUNICPAL BOARD.

2: SUREN SARMA BHATTACHARJEE
S/O LATE TILESHWAR
VILL- MALOW ALI
JORHAT
P.O.- DHARGORA
P.S.- PULIBOR
PIN-785006
NAME OF THE BOARD- JORHAT MUNICIPAL BOARD.

3: TONGKESHWAR BORAH
S/O LT. SONARAM
VILL.- POCHIM KHUTIKOTIA KOLONGPAR PATH
P.O.- SANSWA
P.S.- SADAR (NAGAON)
PIN- 782001
NAME OF THE BOARD- NAGAON MUNICIPAL BOARD.

4: SOFIQUR RAHMAN CHOUDHURY
S/O LATE NAZI ALI CHOUDHURY
VILL.- DORONGIAL
P.O.- CHOKOLAGHAT
P.S.- JURIA
PIN-782124
NAME OF THE BOARD- NAGAON MUNICIPAL BOARD.

5: SMTI. MONI SAIKIA
W/O PRODEEP SAIKIA
VILL.- DORONGIAL
P.O.- CHOKOLAGHAT

P.S.- JURIA
PIN-782124
NAME OF THE BOARD- NAGAON MUNICIPAL BOARD.

6: SMTI. PURNIMA BORAH
W/O LATE SIBAPRASAD BORAH
VILL.- NH- 37
KHUTOKOTIA
P.O.- HOIBARGAON
P.S.- HOIBARGAON
PIN-782002
NAME OF THE BOARD- NAGAON MUNICIPAL BOARD.

7: PADMA KANTA SARMAH
S/O LATE NADURAM SARMAH
VILL.- MORIKOLONG BORGHAT
P.O.- NAGAON
P.S.- NAGAON
PIN- 782001.

8: PRODEEP KR. PATHAK
S/O LATE NOBIN CH. PATHAK
VILL.- MADHYA MATUA KUSHI BARPETA
W.NO.- 19
P.O.- BARPETA
P.S.- BARPETA
PIN-781301
NAME OF THE BOARD- BARPETA MUNICIPAL BOARD.

9: NONI GOLPAL RAJKHOWA
S/O LATE GOJOT RAJKHOWA
VILL.- LOKHOUJAN TINALI
P.O.- LOKHOUJAN
P.S.- BOKAKHAT
PIN-785612
NAME OF THE BOARD- BOKAKHAT MUNICIPAL BOARD

VERSUS

STATE OF ASSAM AND 20 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO TO THE GOVT. OF ASSAM, MUNICIPAL ADMINISTRATION DEPTT., DISPUR, GUWAHATI 781006.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER TO THE GOVT. OF ASSAM
URBAN DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
METROPOLITAN DEVELOPMENT AUTHORITY
DISPUR
GUWAHATI-781006

5:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

6:THE DIRECTOR
FINANCE (ECONOMIC AFFAIRS) DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006

7:THE JORHAT MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
A.T. ROAD
MALOW ALI
JORHAT
ASSAM-785001

8:THE NAGAON MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
CHRISTIANPATTY
NAGAON
ASSAM-782001

9:THE MORIGAON MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
RAJAGAON
ASSAM-782105

10:THE BARPETA MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
BARPETA ROAD
ASSAM-781315

11:THE HOWLY TOWN COMMITTEE
REPRESENTED BY THE CHAIRMAN
HOWLY ASSAM-781316

12:THE BARPETA ROAD MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
BARPETA ROAD
ASSAM-781315

13:THE BOKAKHAT MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
BOKAKHAT
ASSAM-785612

14:THE SIVASAGAR MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
SIVASAGAR
ASSAM-785640

15:THE SONARI MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
SONARI
ASSAM-785690

16:THE DIGBOI TOWN COMMITTEE
REPRESENTED BY THE CHAIRMAN
DIGBOI
ASSAM-786171

17:THE AMGURI MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
NATIONAL HIGHWAY 61
AMGURI
ASSAM-785683

18:THE DERGAON MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
DERGAON
ASSAM-785703

19:THE GOLAGHAT MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
BHOGA GAON
ASSAM-785621

20:THE LAKHIMPUR MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
LAKHIMPUR
ASSAM-787001

21:THE TEZPUR MUNICIPAL BOARD
REPRESENTED BY THE CHAIRMAN
MAHABHAIRAB
TEZPUR
ASSAM-78400

For the appellants : Mr. H. Rahman, Sr. Advocate
Assisted by Dr. P. Agarwal,
Advocate

For the respondents : Mr. P. Nayak,
Addl. A.G., Assam

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

10-11-2026

(Ashutosh Kumar, C.J.)

We have heard Mr. H. Rahman, learned Senior Advocate for the appellants and Mr. P. Nayak, learned Additional Advocate General, Assam for the respondents/State.

2. The appellants are the retired employees of various Municipal Boards/Corporations in the State of Assam. They were appointed by the respective Municipal Boards and their salaries, etc. were being paid from the resources of such Boards/Corporations. When, over a period of time, the salaries of such employees were not paid by the respective Municipal Boards/Corporations because of straightened financial circumstances, the Government of Assam stepped in and started granting financial assistance for making payment of salaries to the appellants. The appellants and many others, thus, conceived an expectation that their services would be provincialized.

3. It appears that a decision, later, was taken by the Cabinet, recommending provincialisation of the services of the employees of the Municipal Boards, Guwahati Municipal Corporation, Local Bodies, etc.; but the said Cabinet decision was never given effect to and no legislation was enacted. Eventually, many of the appellants and others similarly situated employees retired from service. However, they approached this Court vide WP(C) 6067/2019 seeking a direction for implementation of the 2013 Cabinet decision and grant of pensionary benefits.

4. The records further reveal that during the pendency of the afore-noted writ petition, the Assam Municipal Employees (Provincialisation) Act, 2021 was enacted but the same was later replaced by the Assam Municipal Employees (Provincialisation) Act, 2025 (hereinafter to be referred as '2025 Act'), which was gazetted on 16 June, 2025.

5. Under the Act of 2025, the services of only such employees were to

be provincialized, who were appointed on or before 4th September, 2013 (the date of the Cabinet decision) and who still remained in service.

6. Since the appellants had already retired prior to coming into force of the 2025 Act, they could not come within the purview of the 2025 Act.

7. The appellants claim that they were deliberately excluded in order to avoid giving the benefits of provincialisation to them.

8. The afore-noted writ petition ultimately was dismissed on the ground that the 2025 Act, provincializing the services of all those appointees who were appointed before 4th September, 2013, and who remained in service when the 2025 Act came into existence, was prospective and it covered only in-service employees.

9. Mr. Rahman, learned Senior Advocate, however, has questioned such decision on the ground that when a Cabinet decision was taken on 04.09.2013, recommending provincialisation of the services of the employees of Municipal Boards/Corporations, followed by the concerned Minister's assurance on the floor of the Assembly, and the decision was circulated by the Finance Department, a legitimate expectation arose and the State was obliged to implement such decision since such decision had never been recalled or modified for about a decade. He has further argued that the Cabinet decision by itself constitutes an executive decision of the State under Article 166 of the Constitution of India and what remains thereafter is only a formal acceptance/authentication and expressed in the name of the Governor.

10. In support of his contention, Mr. Rahman, learned Senior Advocate for the appellants has cited a judgment of a Coordinate Bench of this Court in ***Pankaj Kumar Sarma vs. State of Assam and others :: 2023 SCC OnLine Gau 1404***, wherein, relying on a Division Bench judgment of this Court in ***Union of India vs. Shree Ganapati Rolling Mills (P.) Ltd. :: (2006) 3 Gau LR 586*** and the judgment of the Supreme Court in ***Rai Sahib Ram Jawaya Kapur vs. The State of Punjab :: AIR 1955 SC 549***, this Court held that every decision of the State Cabinet would be binding upon the Administrative Departments and it is axiomatic that it would be the bounden duty of every Administrative Department to implement the decision of the Cabinet in letter and spirit.

11. The learned Single Judge in this instance has very justifiably held that a Cabinet decision or Memorandum is only an advice tendered by the Council of the Ministers to the Governor and, in the absence of the same having been accepted by the Governor and a decision not having been made formally expressing and authenticating such decision in the name of the Governor in accordance with Article 166 of the Constitution, cannot attain the status of a decision binding on the State.

12. The learned Single Judge, however, has observed that now with the legislation in place in the form of 2025 Act, limiting the intake of the serving employees for provincialisation, the intention of the Cabinet has been given effect to, but in a limited manner, which has not been challenged.

13. There is no dispute that the afore-noted legislation is prospective in nature and, therefore, the claim of the appellants was rejected by the

learned Single Judge.

14. We find no reason to differ with the judgment passed by the learned Single Judge.

15. The appeal lacks merit and the same is, therefore, dismissed.

JUDGE **CHIEF JUSTICE**

Comparing Assistant