GAHC010215032021

2026:GAU-AS:16740

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

Case No. : WP(C)/7052/2021

KARTIK KUMAR YADAV AND 20 ORS.
S/O- RAMDHARI YADAV, WORKING AS WELDER, R/O- TEZPUR
HATIPILKHANA, WARD NO. 6, P.O. TEZPUR, PIN- 784001.

2: JOON MANI KALITA
WORKING AS WELDER
SO- LATE NITYANANDA KALITA
VILL.- B.P. TINIALI
TEZPUR
PIN- 784154.

3: KUSHESWAR BORO
WORKING AS OTRP
S/O- LATE JAGANATH BORO
VILL.- GUTI BOARAH CHUBURI
P.O. BINDUKURI
TEZPUR
PIN- 784520.

4: TARUN KUMAR NANDI
WORKING AS TELEPHONE OPERATOR
S/O- LATE MAKHANLAL NANDI
WARD NO. 2
TEZPUR
PIN- 784001.

5: BABUL PAUL
WORKING AS WELDER
S/O- LATE SUBAL PAUL
TEZPUR LALMATI
P.O. HAZARAPAR
PIN- 784001.

6: MD. OHED ALI

CRANE OPERATOR
S/O- LATE ATTAR ALI
VILL.- BASERIA MUSLIM GAON
TEZPUR
PIN- 784150.

7: MRIDUL BORA
WORKING AS ELECTRICIAN
S/O- LATE GURADHAR BOARAH
VILL.- BESERAI KANAY BOARAH CHUBURI
TEZPUR
PIN- 784150.

8: TAPAN CHATTERJEE
WORKING AS VEHICLE MECHANIC
S/O- LATE GOPAL CHETARJI
RUBBER BAGAN
LAND NO. 6
INDERE NAGAR
P.O. TEZPUR
PIN- 784001.

9: BIREN SAIKIA
WORKING AS VEHICLE MECHANIC
S/O- LATE BABUL SAIKIA
VILL.- DIPOTA
TEZPUR
PIN- 784150.

10: DULAL CH. BORAH
WORKING AS VEHICLE MECHANIC
S/O- LATE GHANASHYAM BORAH
VILL.- LIKHAKGAON
TEZPUR
PIN- 784153.

11: KHAGEN NATH
WORKING AS WELDER
S/O- LATE BHOGESWAR NATH
VILL.- KATAKI CHUBURI
TEZPUR
PIN- 784153.

12: SANTOSH BORAH
WORKING IN ADMINISTRATIVE BRANCH
S/O- LATE GHANA KANTA BORAH
VILL.- SOPORA CHUBURI KALITA GAON
P.O. DIPOTA

TEZPUR
PIN- 784150.

13: JIBAN BORAH
WORKING AS VEHICLE MECHANIC
S/O- LATE SOMNATH BORAH
VILL.- SOPORA CHUBURI KALITA GAON
P.O. DIPOTA
TEZPUR
PIN- 784150.

14: BITTU DAS
WORKING IN ADMINISTRATIVE BRANCH
S/O- BHOLA DAS
VILL.- BIHAGURI
TEZPUR
PIN- 784153.

15: SANJOY DUTTA
WORKING IN ADMINISTRATION BRANCH
S/O- LATE SACHIN DUTTA
DARRANG COLLEGE ROAD
TEZPUR
P.O. MAHABHAIRAB
PIN- 784001.

16: MD. ARIF SAIKIA
WORKING IN ADMINISTRATIVE BRANCH
S/O- LATE MUJIB SAIKIA
VILL.- BASERIA MUSLIM GAON
TEZPUR
PIN- 784150.

17: MD. NAJMUL ALI
WORKING IN ADMINISTRATIVE BRANCH
S/O- LATE SORAB ALI
VILL.- BASERIA MUSLIM GAON
PIN- 784150.

18: BHABEN BAR KATAKI
WORKING AS VEHICLE MECHANIC
S/O- LATE TARUN BAR KATAKI
VILL.- DA PARBATIA BAZAR CHUBURI
PIN- 784150.

19: SHYAMANTA BORAH
WORKING IN ADMINISTRATIVE BRANCH
S/O- SRI KHIROD BORAH

VILL.- BIHAGURI KALITA GAON NO. 1
PIN- 784153.

20: SAHADEV SUKLA BAIDYA
WORKING IN ADMINISTRATIVE BRANCH
S/O- NANI GOPAL SUKLA BAIDYA
C/O- MRIDUL BORAH
VILL.- BESERIA KANAY BORAH CHUBURI
PIN- 784150.

21: UTTAM BORAH
WORKING IN ADMINISTRATIVE BRANCH
S/O- LATE DEBESWAR BORAH
VILL.- BASERIA
PIN- 784150

VERSUS

THE UNION OF INDIA AND 3 ORS
REP. THROUGH SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF DEFENCE SURFACE TRANSPORT, SOUTH BLOCK, NEW DELHI-110001

2:THE DIRECTOR GENERAL
BORDER ROADS ORGANISATION (GREF)
KASHMIR HOUSE
NEW DELHI-110003.

3:THE CHIEF ENGINEER
EASTERN BASE WORKSHOP (GREF)
C/O- 99 APO
TEZPUR
PIN-931723.

4:THE COMMANDANT
EASTERN BASE WORKSHOP (GREF)
C/O- 99 APO
TEZPUR
PIN- 931723

BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners : Shri M. Chanda, Advocate.

Advocate for the respondents : Shri P. S. Lahkar, CGC.

Date on which judgment is reserved : **10.11.2026**

Date of pronouncement of judgment : **13.11.2026**

Whether the pronouncement is of the operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER

The instant petition under Article 226 of the Constitution of India has been filed seeking the following relief:

> "*In the premises aforesaid, it is therefore prayed that Your Lordship's may be pleased to consider this application, admit the same, call for the records of the case and Issue Rule nisi upon the respondents as to why:-*
>
> *(A) A Writ of Mandamus and/or certiorari or any other appropriate writ, order or direction should not be issued directing and/or commanding the respondents to grant of temporary status and any other benefit in terms of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 to the petitioners who were in employment as on 01.09.1993 and to pay the other petitioners who were appointed after 01.09.1993 the wages at the minimum of the pay-scale at the lowest grade, in the regular pay-scale extended to regular employees, holding the same post with arrears;*
>
> *-And-*
>
> *Cause or causes being shown and upon hearing the parties be pleased to make the Rule absolute and/or pass such other or further order (s) as Your Lordships may deem fit and proper.*
> *-And-*

Pending disposal of Rule, the Hon'ble Court be pleased to direct the respondents to allow the petitioners to continue to work on casual basis."

2. The petitioners, who are 21 in nos., have joined together in this petition. They are casual workers under the General Reserve Engineering Force (GREF) of the Border Road Organization and claim to be serving in the said capacity for about 20 to 30 years. Amongst the petitioners, 13 petitioners claim to be serving from a period prior to 01.09.1993 and are seeking the benefit of grant of temporary status. It is based on a scheme dated 01.09.1993 for grant of such status if the service is rendered continuously for a period of 240 days in one year. For the rest of the 8 petitioners, benefit of pay scale of the lowest cadre is sought as per the principles laid down by the Hon'ble Supreme Court in the case of ***State of Punjab & Ors. vs Jagjit Singh & Ors.*** reported in ***(2017) 1 SCC 148***.

3. I have heard Shri M. Chanda, learned counsel for the petitioner. I have also heard Shri P. S. Lahkar, learned CGC.

4. Shri Chanda, the learned counsel for the petitioners, at the outset has submitted that through this petition, regularization of service is not prayed for and it is only for certain benefits in terms of a scheme and in terms of the principles laid down by the Hon'ble Supreme Court in the aforesaid case of ***Jagjit Singh*** (supra). It is submitted that 13 nos. of petitioners have been rendering continuous service and are entitled to be given the benefit of temporary status as per the scheme dated 01.09.1993. However, the petitioners have been deprived of such benefits. He submits that for the rest 8 nos. of petitioners, by dint of their long period of service, they are entitled to get the benefit of the minimum of pay scale of the lowest cadre as directed by the Hon'ble Supreme Court in the aforesaid case of ***Jagjit Singh*** (supra).

5. He has submitted that so far as the claim for grant of temporary status is concerned, the respondent authorities are unjustified in giving a day's break in the services rendered. In this connection, he has drawn the attention of this Court to a decision of the Hon'ble Supreme Court in the case of ***Union of India vs Vartak*** reported in ***(2011) 4 SCC 200***.

6. By referring to the observations made in paragraphs 21 and 22 of the said judgment, the Sh. Chanda has submitted that giving such a break after 6 months is deprecated and in fact, there is a direction to formulate a scheme for absorption and regularization of the incumbents. It is submitted that till now, no such scheme has been framed. He has also submitted that few of the petitioners are at the verge of retirement, which is 60 years of age, and if they are not given the benefits, immense prejudice and hardships would be caused to them.

7. So far as the aspect of giving the benefits of the principles laid down by the Hon'ble Supreme Court in the case of ***Jagjit Singh*** (supra) is concerned, the learned counsel for the petitioners has submitted that while the minimum scale of pay has been given in terms of the Labour Commissioner's rate, such minimum wages has to be from the lowest post of the organization. He submitted that the petitioners receive a monthly wage of approximately Rs. 18,000/-, whereas they are entitled to a significantly higher amount under the aforementioned principles.

8. The learned counsel has also informed that similarly situated persons have been given the benefit and in this regard, he has referred to certain communications which is on the context of a judgment by the Hon'ble Jammu and Kashmir High Court dated 06.02.2002 and communications issued later whereby the review filed by the State was dismissed by the High Court and

thereafter temporary status was granted to the incumbents vide an order dated 10.08.2011. He has submitted that when similarly situated persons have been given the temporary status, there cannot be any intelligible differentia with the present petitioners making a similar claim.

9. *Per contra*, Shri Lahkar, the learned CGC, has submitted at the outset that neither of the prayers are tenable in the eyes of law. He has submitted that the petitioners were not appointed as such and were only casually engaged for a period of 179 days. He has submitted that such engagement is strictly in accordance with law and in this regard, he has placed before this Court the ***Border Roads Regulations, 1962***, more particularly, Regulation 503 thereof. He has submitted that the said Regulation gives the discretion for employing personnel on monthly rate of pay for a maximum period of 6 months at a time and such personnel shall not be eligible for any of the privileges of continued employment under the Government. He has submitted that the aforesaid provision of the Regulation has not been put to challenge.

10. By referring to the case of ***Vartak*** *(supra)* as relied upon by the petitioners, the learned CGC has submitted that the facts and circumstances of the said case are totally different. He has submitted that the case before the Hon'ble Supreme Court was on the aspect of regularization of service, which is not the subject matter of the present case. He has submitted that the present case is not a case of creating any artificial break and such break is done strictly in accordance with the Regulation holding the field. He has also submitted that the aspect of temporary status is as per an Office Memorandum dated 10.09.1993, more particularly Appendix thereto in SL. No. 4, the conferment of temporary status is laid down. He has submitted that there is a requirement to have continuous service for a minimum of 240 days in a year, which is not the

case with the present petitioners.

11. The learned CGC has referred to the affidavit-in-opposition dated 30.07.2022 filed by the respondent nos. 1 to 4, wherein the claims of the petitioners have been denied.

12. So far as the case of ***Vartak*** *(supra)* is concerned, the learned CGC has further submitted that on the aspect of framing of the scheme, a contempt proceeding was initiated in which the Hon'ble Supreme Court vide order dated 30.08.2013 had held that there was no contempt as the matter was duly looked into by the authorities and had come up with the decision that scheme was not able to be framed. He has further submitted that there are about 90,000 similarly situated casual labourers all over India as on 2021 and any direction as prayed for would entail a huge expenditure of about Rs. 12,000 Crores, which would be a heavy burden.

13. He has otherwise submitted that the claims of the petitioners are neither tenable in law nor on facts. He has submitted that the petitioners do not fulfill the requirement of the Office Memorandum dated 10.09.1993 and therefore are not entitled for a direction for grant of temporary status. He has reiterated that the Regulations of 1962, more particularly, Regulation 503 have not been put to challenge.

14. On the aspect of the claim for minimum of pay scale, the learned CGC has referred to the additional affidavit filed on 27.07.2026. He has submitted that such mandate has been clearly followed and in fact the matter was thoroughly considered and a higher benefit has been given to the petitioners. In this regard, he has referred to the details given in a tabular form in the additional affidavit and has contended that the minimum of pay of both the Central

Government and State Government have been taken and whichever is higher are being paid to the petitioners. He has submitted that no injustice of any nature has been caused to the petitioners. He has also submitted that the mandate laid down by the Hon'ble Supreme Court in the case of ***Jagjit Singh*** (supra) has been duly fulfilled.

15. In his rejoinder, the learned counsel for the petitioners has submitted that the minimum of pay scale has to be as per the Grade D labourers working in the same organization and cannot be of the rate of the Labour Commissioner. He has submitted that on a proper evaluation and assessment of the mandate laid down by the Hon'ble Supreme Court in the case of ***Jagjit Singh*** *(supra)*, the amount would be much higher.

16. The rival contentions advanced in the Bar have been duly considered and the materials placed have been carefully perused.

17. As mentioned above, there are two sets of petitioners. While 13 nos. of petitioners are claiming the grant of temporary status as per the scheme of 01.09.1993, the rest 8 nos. of petitioners are seeking benefit of the principles laid down by the Hon'ble Supreme Court in the case of ***Jagjit Singh*** *(supra)*.

18. So far as the first set of petitioners are concerned seeking benefit of the scheme of 01.09.1993, the said claim is primarily based on a decision of the Hon'ble Supreme Court in the case of ***Vartak*** *(supra*). In the said case, the Hon'ble Supreme Court has deprecated the practice of giving a break after 6 months. The aforesaid case, however, is on the aspect of regularization of service and not for the subject of grant of temporary status. On the other hand, this Court finds force in the contention advanced by Shri Lahkar, the learned CGC, that engagement of the petitioners for the present job is regulated by

Regulation 503 of the Regulations of 1963. Admittedly, the said Regulation is not the subject matter of challenge. The Regulation, in clear terms empowers for employing on daily basis for a maximum period of 6 months. For ready reference, the aforesaid regulation is extracted herein below:

> "*503. The personnel may be employed on daily or monthly rates of pay, if on monthly rates, the period of their engagement shall be for a maximum period of six months at a time and the personnel shall not be eligible for any of the privileges of continued employment under Government. The services of the personnel are liable to be terminated at any time without notice and no terminal benefits shall be payable."*

19. As noted above, the aforesaid Regulation is not the subject matter of challenge. The break in service made so far as the petitioners are concerned is strictly in accordance with the Regulation. Therefore, it cannot be said that there is an artificial break in the service of the petitioners. The mandate of the Hon'ble Supreme Court in the case of ***Vartak*** (supra) is otherwise also not applicable to the facts and circumstances of the present case inasmuch as the case before the Hon'ble Supreme Court was on the aspect of regularization of service, whereas the present case is for grant of temporary status.

20. This Court has also examined the aforesaid aspect from the point of view of the Office Memorandum dated 10.09.1993, more particularly the Appendix which is on the aspect of grant of temporary status. For ready reference, the relevant part is extracted herein below:

> "*4. (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)."*

21. There is a clear requirement of serving for a continuous period of 240

days in a year to be granted the status of temporary status. In the instant case, the petitioners admittedly do not fulfill the said requirement. The non-fulfillment of the said requirement cannot be said to be done in a *mala fide* manner inasmuch as there is a Regulation as noted above which empowers and rather mandates the authorities to have a continuous employment for only six months.

22. So far as the mandate of the Hon'ble Supreme Court is concerned regarding the framing of a scheme, this Court has also noted that while a contempt petition was filed, the same was closed vide order dated 30.08.2013 whereby the Hon'ble Supreme Court had come to a conclusion that there was no contempt as the matter was duly looked into by the authorities and had come up with the decision that scheme was not able to be framed. This Court has also taken into consideration the financial impact which is also a relevant consideration. Of course, if a legal case is made out, the said aspect would take a back seat, but in the instant case, this Court is of the opinion that the petitioners have failed to make out a case for grant of temporary status in terms of the Office Memorandum dated 10.09.1993.

23. This brings us to the second part of the petition concerning 8 nos. of petitioners who are seeking the benefit of the principles laid down by the Hon'ble Supreme Court in the case of ***Jagjit Singh*** *(supra)*. While the Hon'ble Supreme Court had directed for payment of minimum of pay scale of the lowest cadre, the case of the petitioners is that though such scale is given, the same pertains to the Labour Commissioner and not of the organization.

24. From the materials on record including the additional affidavit filed on 20.07.2026, it appears that the matter was examined and the petitioners are indeed given the minimum of the pay scale. It also appears that the authorities had applied mind and has given the petitioner the higher of the pay scales

whichever is from the Central Government and the State Government. For better appreciation, the details given in the tabular form in the affidavit filed on 20.07.2026 are extracted herein in below:

Sl No	Categories	CPL Wages before Apr 2025	As per Govt. of India Ministry of Labour and Employment, Office of the Chief Labour, Commissioner (C), New Delhi letter No..F.No.1/6(3)/2025-LS-IIdated 28 Mar 2025	As per Govt. of Assam Office of Labour Commissioner letter No ACL/41/2004 dated 08 Feb 2024	Recommendation of Board of Officers
		Rate per day in Rs.	Rate per day in Rs.	Rate per day in Rs.	
(i)	Unskilled	526.00	541.00	365.86	541.00
(ii)	Skilled	739.00	760.00	514.88	760.00

25. From the table extracted above, it clearly appears that it is the higher amount whichever is available that has been given to the petitioner. For example, for Unskilled segment while the Central Pay is Rs.541/-, the State Pay is Rs.365.86/-, the recommendation is the higher amount of Rs.541/- per day. It may be mentioned that the CPL wages before April 2025 was Rs. 526/- per day.

On the other hand, for Skilled segment, the Central Rate of Rs.760/- per day is recommended which is higher than the State Rate of Rs.514.88/- per day. It may be mentioned that the CPL wages before April 2025 was Rs. 739/- per day.

26. Though the learned counsel for the petitioner has harped that such minimum of pay scale has to be from the lowest cadre of the organization, this Court is of the opinion that giving the minimum skill from the rate applicable to the Labour Commissioner cannot be held to be unreasonable and arbitrary. In the opinion of this Court, the same amounts to a substantial compliance of the direction of the Hon'ble Supreme Court and giving the higher of the pay scales in a comparison between the Central rate and the State rate gives a clear impression that appropriate benefits of the direction has been given to the petitioners.

27. In view of the aforesaid directions, this Court is of the opinion that no case for interference is made out.

28. The writ petition accordingly stands dismissed.

29. No order as to cost.

JUDGE

Comparing Assistant