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

Case No. : WP(C)/2194/2013

SAMAN UDDIN LASKAR and 4 ORS
S/O LATE MONIR UDDIN LASAKAR, OF VILL. and P.O. NAGDIR GRAM,
DIST- CACHAR, ASSAM

2: ATAUR RAHMAN LASKAR
S/O LATE ARZAN ALI LASKAR
VILL. and P.O. NORTH NARAINPUR
DIST- HAILAKANDI
ASSAM

3: NOOR ALI LASKAR
S/O LATE HABIB ALI LASKAR
VILL. BAKRIHAWAR
P.O. NORTH NARAINPUR
DIST- HAILAKANDI
ASSAM

4: ASHIK UDDIN BARBHUIYA
S/O LATE LADOMIYA BARBHUIYA
OF VILL. UZANGRAM
P.O. ARUNACHAL
DIST- CACHAR
ASSAM

5: JAHUR UDDIN BARBHUIYA
S/O LATE JABAR ALI BARBHUIYA
VILL. NORTH NARAINPUR-I
P.O. NORTH NARAINPUR
DIST- HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, TRANSPORT IWT, DEPARTMENT, DISPUR, GHY-6

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

3:THE DIRECTOR
INLAND WATER TRANSPORT
ASSAM
ULUBARI
GHY-7

4:THE EXECUTIVE ENGINEER
INLAND WATER TRANSPORT DIVISION
MELA ROAD
MALUGRAM
SILCHAR-2
DIST- CACHAR
ASSAM

5:THE TREASURY OFFICER
SILCHAR
P.O. SILCHAR
DIST- CACHAR
ASSA

Advocate for the Petitioner : MRH I CHOUDHURY, MS L HMAR,MR K KASHYAB,MR. M R CHOUDHURY,MR. K KALITA,MR. B BORAH,MR. I H SAIKIA,MS L HMAR,MR. B BORAH,MR. I H SAIKIA,MR K KASHYAB,MR. K KALITA,MR. M DUTTA (AMICUS CURIAE),MRK UDDIN,DR.B AHMED,MR.S R BARBHUIYA,MR.N HOQUE,MR.S K DEORI,MR A R BHUYAN,MR. M A I HUSSAIN,MR. B U LASKAR,MR. H I CHOUDHURY

Advocate for the Respondent : MR. M R CHOUDHURY, SC, FINANCE,,,SC, IWT,

Linked Case : Review.Pet./57/2009

THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

FINANCE DEPARTMENT
DISPUR
DISPUR

GUWAHATI-6.

VERSUS

SRI SAMAN UDDIN LASKAR and ORS.
SON OF LATE MONIR UDDIN LASKAR VILLAGE and P.O.NAGDIR GRAM
DIST. CACHAR
ASSAM.

2:SRI ATAUR RAHMAN LASKAR

S/O LATE ARZAN ALI LASKAR VILL. and P.O. NORTH NARAINPUR
DIST. HAILAKANDI
ASSAM.

3:SRI NOOR ALI LASKAR

S/O LT. HABIB ALI LASKAR VILL. BAKRIHAWAR
P.O. NORTH NARAYANPUR
DIST. HAILAKANDI
ASSAM.

4:SHRI ASHOK UDDIN BARBHUIYA

S/O LT. LODOMIYA BARBHUIYA VILL. UZANGRAM P.O. ARUNACHAL
DIST. CACHAR
ASSAM.

5:SHRI JAHUR UDDIN BORBHUYAN

S/O LT. JABAR ALI BARBHUIYA VILL. NORTH NARAINPUR I
P.O. NORTH NARAINPUR
DIST. HAILAKANDI
ASSAM.

Advocate for : SC
F.DEPTT.

Advocate for : MR.A K BHUYAN appearing for SRI SAMAN UDDIN LASKAR and ORS.

Linked Case : Cont.Cas(C)/714/2024

SAMAN UDDIN LASKAR AND 4 ORS
S/O LATE MONIR UDDIN LASKAR
R/O VILL AND P.O.-NAGDIR GRAM

DIST- CACHAR
ASSAM
PIN-788121

2: ATARUR RAHMAN LASKAR
S/O LATE ARZAN ALI LASKAR
R/O VILL AND P.O.- NORTH NARAINPUR
DIST- HAILAKANDI
ASSAM
PIN-788801

3: NOOR ALI LASKAR
S/O LATE HABIB ALI LASKAR
R/O VILL- BAKRIHAWAR
P.O.- NORTH NARAIANPUR
DIST- HAILAKANDI
ASSAM
PIN-788801

4: ASHIK UDDIN BARBHUIYA
S/O LATE LADOMIYA BARBHUIYA
R/O VILL- UZANGRAM
P.O.- ARUNACHAL
DIST- CACHAR
ASSAM
PIN-788025

5: JAHUR UDDIN BARBHUIYA
S/O LATE JABAR ALI BARBHUIYA
R/O VILL- NORTH NARAINPUR-I
P.O.-NORTH NARAINPUR
DIST- HAILAKANDI
ASSAM
PIN-788801
VERSUS

ASHUTOSH AGNIHOTIRI
IAS AND 4 ORS
THE COMMISSIONER AND SECRETARY OF THE GOVT. OF ASSAM
TRANSPORT (IWT) DEPARTMENT
DISPUR
GUWAHATI-6

2:JAYANT NARLIKAR
IAS
THE COMMISSIONER AND SECRETARY OF THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR

GUWAHATI-6

3:MS. SUSHMITA KAKATI
ACS
THE DIRECTOR
INLAND WATER TRANSPORT
ASSAM
ULUBARI
GUWAHATI-7

4:MS. RAJASHRI BORAH
THE EXECUTIVE ENGINEER
INLAND WATER TRANSPORT DIVISION
MELA ROAD
MALUGRAM
SILCHAR-2
DIST- CACHAR
ASSAM
PIN-788001

5:SAMIM AKHTAR
THE TREASURY OFFICER
SILCHAR
P.O.-SILCHAR
DIST- CACHAR
ASSAM
PIN-788001

Advocate for : MR. I H SAIKIA
Advocate for : MS. M D BORAH(R-3) appearing for ASHUTOSH AGNIHOTIRI IAS AND 4 ORS

– B E F O R E –

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

Advocate for the petitioner : Mr. I.H. Saikia.

Advocate for the respondents : Mr. P. Nayak, Addl. AG,
SC, Finance
Ms. M. D. Borah, SC, IWT.

Date on which judgment is reserved : 06.08.2026.

Date of pronouncement of judgment : 05.11.2026.

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been pronounced? : Yes

JUDGMENT AND ORDER (CAV)

Heard Mr. I.H. Saikia, learned counsel for the petitioners. Also heard Mr. P. Nayak, learned Addl. Advocate General & Standing Counsel, Finance; Ms. M.D. Borah, learned Standing Counsel, IWT.

2] This writ petition being WP(C) No.2194/2013 is preferred by 5 writ petitioners, who were serving initially as Muster Roll Workers under the Silchar Division of the Inland Water Transport Department, Government of Assam. They were subsequently regularized as Muster Roll Workers in the regular scale of pay. The respective dates and places of engagement of the petitioners are extracted below:

Sl. No.	Petitioners	Date of engagement as M.R. Worker	Skilled/Unskilled	Division/Sub-Division	Place of Posting
1.	Saman Uddin Laskar	1-12-1992	Skilled (Khalasi)	W.T. Divn., Silchar (Hailakandi Sub-Divn.)	Sonai Ferry Service
2.	Ataur Rahman Laskar	25-4-1992	Skilled (Ghat Helper)	W.T. Divn., Silchar (Hailakandi Sub-Divn.)	Narainpur Ferry Service
3.	Noor Ali Laskar	1-4-1992	Skilled (Ghat Helper)	W.T. Divn., Silchar (Hailakandi Sub-	Narainpur

				Divn.)	Ferry Service
4.	Ashik Uddin Barbhuiya	1-11-1991	Skilled (Ghat Helper)	W.T. Divn., Silchar (Hailakandi Sub-Divn.)	Jatinga Ferry Service
5.	Johur Uddin Barbhuiya	1-3-1992	Skilled (Ghat Helper)	W.T. Divn., Silchar (Hailakandi Sub-Divn.)	Dhaleswari Ferry Service

3] According to the petitioners, pursuant to the policy decision taken by the State on 20.04.1995, the various Muster Roll Workers engaged under the different divisions were to be regularised in a phased manner. In terms of the said policy decision, those Muster Roll Workers who had been engaged prior to 01.04.1993 and had continued in service thereafter were to have their services regularised. In furtherance of the said policy decision, the State created 5,892 numbers of posts in the Work Charged grade and 25,069 numbers of Grade IV posts for the purpose of regularisation. The particulars of those persons who were engaged prior to 01.04.1993 and were still continuing in their jobs, including the petitioners were sent to the Head of Office for onward submission before the Government for consideration of regularisation. Thereafter, by order dated 21.10.2005, the Director of IWT issued an order whereby the petitioners were regularised w.e.f. 22.07.2005. In the said order, the names of all the petitioners were specifically mentioned.

4] It is the case projected by the petitioners that notwithstanding the order of regularisation issued by the Director of IWT, vide the order dated 21.10.2005, the pay bills of the petitioners were dishonoured by the Treasury Officer stating

that the approval of the Finance Department was required. The petitioners submit that unlike the other similarly situated persons, their regular scale of pay was not released on the ground that there was no approval of the Finance Department.

5] The learned counsel for the petitioners submits that as their salaries were not released for the relevant period of time, they approached this Court by filing WP(C) No.4759 of 2007. This writ petition came to be disposed of by order dated 19.11.2007, wherein the Coordinate Bench of this Court on the submissions made by the Director of IWT, who was personally present before the Court recorded a finding that 1463 numbers of Muster Roll Workers who were engaged prior to 01.04.1993 were recommended by the Department for regularization, pursuant to which Government orders 07.10.2005 and 21.10.2005 were issued approving the names in question for regularization. However, the names of the petitioners were wrongly spelt out. Therefore, a Corrigendum was subsequently issued spelling out the names of the petitioners correctly along with some other employees. The Director had submitted before the Court that the matter was pending before the Finance Department and once the approval of the Department is granted in the correct names of the petitioners, the impediment in payment of salary to the petitioners will no longer exists. The Coordinate Bench, therefore, recorded a finding that the cases of the petitioners were duly approved by the Government for regularization, although a mistake had crept in their names, which anomaly is now being corrected and the matter is before the Finance Department. That mistake is clerical in nature, which had occurred inadvertently and accordingly, the Finance Department was directed to record its approval to the revised names of the petitioners as

submitted to the Finance Department by the Inland Water Transport Department, and which was directed to be expeditiously done within a period of one month.

6] It was also mentioned in the order that the approval for regularization of the petitioners was accorded prior to the full bench judgment of this Court in *Jitendra Kalita and Others vs. The State of Assam and Others* reported in *(2006) 2 GLT 654,* and therefore, the directions contained in the said judgment will not act as a constraint on the Finance Department to act in accordance with the direction.

7] It was held that once the appropriate orders are passed and the approval of the Finance Department is accorded in terms of the said order, the salaries of the petitioners shall be released including the arrear amount without any further delay.

8] The Director, IWT, thereafter requested the Treasury Officer to entertain the pay bills in respect of the newly regularized Muster Roll Workers on the basis of the retention accorded by the Transport Department with concurrence of the Finance Department. The Finance Department thereafter preferred a review petition, being Review Petition No.57 of 2009 seeking a review/modification of the order dated 19.11.2007 passed in WP(C) No. 4759 of 2007.

9] There was another direction in the meantime, by the judgment and order dated 20.12.2013 passed in WP(C) No. 1053 of 2012 and other batches of writ

petitions directing regularization of the services of the petitioners by framing a policy. These writ petitions were filed by a group of employees, who were serving as Muster Roll Worker/Work Charged/Casual/Ad-hoc employee and whose services were not regularized pursuant to the Cabinet decision dated 22.07.2005. While the matter was being heard, the said review petition being Review Petition No.57 of 2009 was also connected to these batches of writ petitions and ultimately, the said writ petitions came to be allowed by the judgment and order dated 20.12.2013. However, no specific order was passed in the review petition.

10] The State respondents went in appeal against the judgment and order dated 20.12.2013 passed in WP(C) No. 1053 of 2012 and other connected writ petitions before a Division Bench of this Court. The appeal was numbered as Writ Appeal No. 45 of 2014. The review petition being Review Petition No. 57 of 2009 was also connected with the writ appeal. This writ appeal ultimately came to be disposed of by judgment and order dated 08.06.2017, whereby, the Division Bench overturned the judgment of the Single bench by holding that the petitioners therein, namely the Muster Roll Workers, Work Charged employees, ad-hoc employees, etc., were not entitled to get their services regularized. However, the Division Bench accepted the State Government's submission that these workers will be paid the minimum scale of pay and other benefits. The writ appeal accordingly was disposed of in terms of the above, although no specific order was passed in the said review petition.

11] The learned counsel for the petitioners therefore, submits that the judgment and order dated 19.11.2007 passed in WP(C) No.4759 of 2007 had

attained finality as the said order was never recalled nor any appeal was preferred and therefore, the respondents were duty-bound to comply with the said order. Since this order was never complied with, the respondents filed a contempt petition being Contempt Case(C) No.714 of 2024. It is therefore, submitted that the direction dated 19.11.2007 passed in WP(C) No.4759 of 2007 having attained finality, the respondents are duty-bound to carry out the said order. While the matter was thus situated, the Office Memorandum dated 16.06.2012 was issued by the Finance Department regarding regularization of services of the Work Charged, Muster Roll Worker and similarly situated workers engaged prior to 01.04.1993 and continues their service since their engagement.

12] This Office Memorandum was issued by the Finance Department with reference to the order dated 27.03.2012 passed by this High Court in Misc. Case No. MC 597 of 2012, wherein it was held that if the State cannot regularise casual workers in accordance with the law laid down by the Apex Court in *State of Karnataka v. Umadevi, (2006) 4 SCC 1*, the High Court cannot direct the adoption of a policy that would be in violation of the judgment of the Apex Court and accordingly the High Court did not grant any such relief. As per the said Office Memorandum, no more regularization of the services of Work Charged, Muster Roll Workers and other similarly situated workers who were engaged prior to 01.04.1993 and who had rendered their continues service will be undertaken. The writ petitioners have assailed this notification praying for setting aside and quashing of the same. A further prayer for mandamus is made for issuance of a mandamus to the Finance Department to approve the proposals of the Inland Water Transport Department for correction of anomalies

towards regularization of the services and a further prayer to the respondents to release the monthly salary of the petitioners in the scale of pay which they were regularized vide order dated 21.10.2005.

13] The learned counsel for the petitioners submits that subsequently in a matter which was travelled to the Apex Court where the judgment and order dated 08.06.2017 passed by Division Bender of this Court in Writ Appeal No. 45 of 2014 *(State of Assam vs. Upen Das & Ors.)* came up for consideration.

14] The Apex Court upon consideration of the matter thereafter, held that the judgment and order dated 08.06.2017 passed by the Division Bench in Writ Appeal No. 45 of 2014 *(State of Assam vs. Upen Das & Ors.)* cannot be sustained and was therefore, set aside and the judgment of the Single Judge by the order dated 20.12.2013 was affirmed. Under such circumstances, the learned counsel for the petitioners submits that besides the fact that the direction of the Court in the judgment and order dated 19.11.2007 passed in WP(C) No. 4759 of 2007 had attained finality, the Apex Court has also set aside the judgment in *Upen Das* (supra) rendered by the Division Bench of this Court. He therefore, submits that the writ petition be allowed and the respondent authorities be directed to release the regular scale of pay including all arrears to the petitioners as had already been held by the Coordinate Bench of this Court.

15] The respondents have contested the matter. However, no affidavit has been filed in this writ petition.

16] On the request of the learned Addl. Advocate General, the Court has

permitted to render their oral submissions.

17] The learned Addl. Advocate General submits that the judgment and order dated 19.11.2007 passed in WP(C) No. 4759 of 2007 by the Coordinate Bench of this Court was no longer operative in view of the judgment and order dated 08.06.2017 passed in Writ Appeal No.45 of 2014. He referred to the cause title of the said judgment in *Upen Das (supra)* to submit that the Writ Appeal was also listed and mentioned in the judgment and order and as a consequence of which therefore, it has to be held that the judgment and order dated 19.11.2007 passed in WP(C) No.4759 of 2007 came to be merged in the judgment and order dated 08.06.2017 passed in Writ Appeal No.45 of 2014. He therefore, submits that in view of the judgment rendered in *Upen Das (supra)* there is no scope for the petitioners to urge before the Court that the directions of the Coordinate Bench in judgment and order dated 19.11.2007 passed in WP(C) No.4759 of 2007 are required to be complied with. The learned counsel further submits that setting aside of the judgment of *Upen Das (supra)* by the Apex Court will not automatically restore the WP(C) No.4759 of 2007 along with its order dated 19.11.2007. There is no specific direction to that effect in the judgment and order rendered by the Apex Court.

18] He further submits that the order dated 21.10.2005, by which the petitioners claimed to have been regularized and which is the basis for approaching this Court by filing the present writ petition was issued by the Director of IWT without any authority and the said order had since been recalled by the Department. The learned Addl. Advocate General however, submits that it is on the basis of the instructions he has made a submission

before this Court that the order dated 21.10.2005 issued by the Director, IWT was recalled by the appropriate authority. He therefore, submits that this writ petition as on date has become infructuous as the primary prayer of the petitioners was for setting aside the impugned Office Memorandum dated 16.06.2012 (Annexure 23) which prayer of the writ petitioners do not seek to press as on date. In the absence of such relief being sought for and in view of the fact that the order dated 21.10.2005 stated to have been issued by the Director of IWT and which order has since been recalled by the appropriate authority of the IWT Department, no further claim is alive or can be granted as prayed for by the writ petitioners. Therefore, this writ petition ought to be dismissed, and no relief ought to be granted to the writ petitioners. It is also submitted that Contempt Case (C) No. 714 of 2024 be dismissed as well, since such a proceeding cannot be initiated by the petitioners in respect of an order passed on 19.11.2007 in view of the express bar of limitation under the Contempt of Courts Act, 1971. He further submits that as per the instructions the petitioners earlier approached this Court by filing a Contempt Case which was subsequently withdrawn and the copies of the said order are not enclosed in the present proceedings.

19] In the rejoinder, the learned counsel for the petitioners reiterated his submissions, which was made earlier. He further submits that in the absence of any specific order being placed before the Court, only mere oral submission made by the respondent counsel is not sufficient to accept the position on facts that the order dated 21.10.2005 issued by the Director, IWT whereby the petitioners were regularised w.e.f. 22.07.2005 has been recalled. Unless such specific orders are placed before the Court, this Court will not accept the mere

oral submissions of the learned counsel for the respondents.

20] The learned counsel for the petitioners further submits that the Contempt Case(C) No. 714 of 2024 has been filed and the Court should proceed to draw up proceedings under the Contempt of Courts Act, 1971 in view of the respondents having not complied with the directions contained in the order dated 19.11.2007 passed in WP(C) No.4759 of 2007.

21] Heard the learned counsel for the parties and carefully perused the pleadings available on record.

22] The petitioners claimed to be employed as Muster Roll Worker under the IWT department and subsequently they were brought into the regular cadre by the order dated 21.10.2005. According to the petitioners in terms of said order they were required to be granted the regular scale of pay like the other similarly situated persons, however, they were deprived from receive of the regular pay. This led to the petitioners approaching this Court in WP(C) No.4759 of 2007 which came to be disposed of by judgment and order dated 19.11.2007. For convenience the said order is extracted below:

> "*Heard Dr.B.Ahmed, learned counsel for the petitioners, Mr.N.Dutta, learned Sr. Counsel appearing for the Department, Mr.D.Saikia, learned Standing Counsel appearing for the Finance Department. Also heard Mr.N.C.Das, Director, Inland Water Transport, Assam who has appeared in person, as directed by the Court.*
>
> *The five petitioners Muster Roll workers who were engaged as in the Inland Water Transport Department prior to 1.4.1993 were approved for regularization by Government by Orders dated 7.10.2005 and 21.10.2005, Thereafter, orders of regularization were issued by the Government in the names of the petitioners. However, as the salaries of the petitioners have not been paid as regular employees of the Department in the scale of pay applicable, this writ petition has been filed seeking appropriate relief.*
>
> *Having regard the grievance expressed and the facts of the case, the Court had*

thought it necessary to require the personal appearance of the Director, Inland Water Transport in the Court to explain the reasons for non-payment of salary Shri N.C.Das, Director, Inland Water Transport, who is personally present, has submitted that 1463 numbers of Muster Roll workers engaged prior 1.4.1993 were recommended by the Department for regularization pursuant whereto the Government orders dated 7.10.2005 and 21.10.2005 were issued approving the names in question for regularization. However, in the recommendation made by the Department and the consequential approval orders of the Government, the names of the petitioners were wrongly spelt out. In the specific orders of regularization issued pursuant to the Government approval, however, the names of the petitioners were correctly mentioned. As there was a discrepancy of names in the regularization orders of the petitioners issued by the Department and the approval orders) of the Government, the Treasury Officer has taken an objection as a result of which salaries of the petitioners could not been paid. The Director personally present has further submitted that subsequently a corrigendum has been issued spelling out the names of the petitioners correctly along with some other employees whose number is 57. The Director has further submitted that the matter is now pending in the Finance Department and once the approval of the said Department is granted in the correct names of the petitioners, the impediment in payment of salary to the petitioners will cease to exist.

The facts of the case, as stated above, makes it amply clear that the cases of the petitioners were duly approved by the Government for regularization though a mistake had crept in their names which anomaly is now being corrected and the matter is engaging the attention of the Finance Department. The facts of the case also point out that the mistake that has occurred is a clerical mistake that has occurred inadvertently. In such circumstances, the Court is of the view the Finance Department should be directed to accord its approval to the revised names of the petitioners as submitted to the Finance Deptt. by the Inland Water Transport Department. This should be done as expeditiously as possible and in any case within la period of one month from today. It is also made clear that as the approval of regularization of the petitioners was accorded prior to the Full Bench Judgment of this Court passed in WPO No. 4759/2007 reported in 2006 (2) GLT 654, the directions contained in the said Judgment shall not act as a constraint on the Finance Department to act in accordance with the present direction.

Once appropriate orders are b passed and the approval of the Finance Department is accorded in terms of the present order, salaries of the petitioners shall be released including the arrear amount without any delay.

The writ petition consequently is disposed of in terms of the above directions.

Further personal appearance of Shri N.C.Das, Director, Inland Water Transport will not be required."

23] A careful perusal of the order, it reflects that at the relevant point in time the Director, IWT had appeared before the Court and had made submissions which were recorded that the petitioners were regularized, however, while sending their names for approval before the Finance Department there was

inadvertent error and subsequently corrected names were already put up and the matter was pending for approval before the Finance Department and once the approval is received from the Finance Department the petitioners would be paid their respective salary as per the scale. It appears from the pleadings that there was no appeal preferred against said judgment and order. Although a review petition being Review Petition No.57 of 2009 was preferred by the Finance Department seeking review or recall and/or modification of the order. It transpires that no specific orders were ever passed in the said review petition recalling the earlier order.

24] Upon careful perusal of the judgment and order rendered in *Upen Das (supra)* also does not reflect that there was any specific order passed in the Review Petition No.57 of 2009. Although the review petition is shown to be connected to the bunch of matters which were considered by the Writ Appellate Court, but in the recital of the judgment and order there is no specific reference made of the review petition No.57/2009 and/or any specific order passed to recall of the said order. Under such circumstances it must be held that the judgment and order dated 19.11.2007 passed in WP(C) No.4759/2007 was never recalled or reviewed at any point in time and since no appeal was preferred the judgment and order will have to be accepted as attain finality.

25] In this context reference can be made to the authorities on the binding effect of decision between the parties. In *V.S. Charati v. Hussein Nhanu Jamadar* reported in *(1999) 1 SCC 273*, the Apex Court while deciding an issue under the Bombay Tenancy and Agricultural Lands Act, 1948 in which proceedings were initiated under section 32G and dropped by the Agricultural Lands Tribunal on

31.05.1961 on the ground that the appellant before the Apex Court was a minor and the tenant could not purchase the land. This decision of the Tribunal however, was not challenged. Before the Apex Court it was urged that the Agricultural Lands Tribunal was not correct in dropping the proceedings under section 32G and therefore, its order dated 31.05.1961 is bad in law. The Apex Court negated this challenge and held that the order of 31.05.1961 has become final and the decision rendered by the Agricultural Lands Tribunal between the appellant and the respondent is binding on both the parties. The Apex Court held that the decision merely because it may be wrong and would not therefore, become a nullity. It will continue to bind the parties unless set aside. The relevant paragraph is extracted below:

> "*9. It is submitted by the respondent that the Agricultural Lands Tribunal was not right in dropping proceedings under Section 32-G. Its order of 31-5-1961 is bad in law. He relied upon a decision of the Bombay High Court in the case of Nago Dattu Mahajan v. Yeshodabai Huna Mahajan where this Court had held that under Section 31, the landlords have a choice to avail of one of the two provisions of resumption, namely, either Section 31(1) or Section 31(3). No landlord can avail of both the provisions. Learned counsel for the respondent, therefore, contends that in the present case, the appellant having exercised his choice under Section 31(1), could not have urged in the proceedings under Section 32-G his disability as a minor under Section 31(3). The order of 31-5-1961 of the Agricultural Lands Tribunal, however, was not challenged by the respondent. The order of 31-5-1961 has become final and the decision rendered by the Agricultural Lands Tribunal as between the appellant and the respondent is binding on both the parties. A decision, simply because it may be wrong, would not thereupon become a nullity. It would continue to bind the parties unless set aside. The effect of the decision of 31-5-1961 on the parties, therefore, cannot be ignored. In the present case, since the tenant could not complete his purchase by reason of the proceedings under Section 32-G being dropped, he cannot now contend that the decision has no legal effect or that the proceedings under Section 32-G ought to have been completed and, therefore, he should be looked upon as a purchaser."*

26] Similar view has been expressed by Division Bench of this Court in *Mudsidul Islam v. State of Assam,* reported in *(2023) SCC OnLine GAU 5598*, wherein the Division Bench held that once a Court renders a judgment on issues vis-à-vis the rights of the parties such a judgment can only be revisited by

establishing judicial norms namely a review or an appeal or a revision in some cases unless the findings of the Court arrived at by way of legal proceeding is sought to be reopened in the manner prescribed, the conclusions arrived at in the judgment vis-à-vis the parties will attain finality.

27] Referring to the judgment of the Apex Court rendered in *A.R. Antulay v. R.S. Nayak,* reported in *(1988) 2 SCC 602*, the Apex Court held that the binding nature of an adjudication expressed in the operative part of the order governs the rights and claims of the parties.

28] In the facts of the present case the decision of the Coordinate Bench rendered in 19.11.2007 in WP(C) No.4759/2007 came to be disposed of with a specific direction to the Finance Department to grant approval for the writ petitioners so that their salaries could be released including arrear. Although no appeal was filed but the review petition was preferred. No specific orders were also passed in the review petition allowing the review petition and recalling the earlier judgment and order dated 19.11.2007 passed in WP(C) No.4759/2007. If the review petition was allowed then the proper procedure would have been adopted to recall the order dated 19.07.2011 passed in WP(C) No.4759/2007 and thereafter the said writ petition ought to have been listed for hearing before the appropriate Court. However, no such orders are found in the review petition which will show that the order dated 19.07.2021 passed in WP(C) No.4759/2007 was recalled. In fact from the record of Review Petition No.57/2009 it is seen that Misc Case No.131/2008 is also found connected and from the record it is seen that initially the Misc Case No.131/2008 was filed seeking modification or recall of the order dated 19.11.2007 passed in WP(C) No.4759/2007 and

subsequent thereto, the Review Petition No.57/2009 was preferred. However, by order dated 28.01.2008, it appears that the Court before which the review petition was listed had also kept the miscellaneous case pending, and until it was disposed of, further action pursuant to the order dated 19.11.2007 passed in WP(C) No. 4759/2007 was directed to be kept in abeyance. The further submission of the learned counsel for the respondents that the order dated 21.10.2005 by which the writ petitioners were regularised was recalled also cannot be accepted in absence of any specific averments been made by filing appropriate pleadings before the Court. No specific orders were placed before the Court, which would show that the order dated 21.10.2005 stood recalled. No departmental records have also been placed by the respondents counsel in support of his contention that the order dated 21.10.2005 was recalled. Under such circumstances, the submissions of the learned counsel for the respondents cannot be accepted. It is well accepted that undisclosed and uncommunicated orders cannot be acted upon. The orders which were issued in files and never communicated to the persons concerned cannot be allowed to be relied upon to take consequential actions against the persons concerned.

29] In *State of Punjab v. Amar Singh Harika, AIR 1966 SC 1313*, the Apex Court held that an order affecting civil rights becomes operative only upon communication to the concerned employee. In *Bachhittar Singh v. State of Punjab (AIR 1963 SC 395)* the Apex Court held that the internal file notings or orders retained in the official files do not attain legal enforceability unless communicated. Therefore, any alleged cancellation order kept in the departmental files is legally ineffective and unenforceable.

30] Having considered the arguments made and the submissions of the learned counsel for the petitioners as well as perusal of the pleadings available before this Court, this Court arrived at a conclusion that the order dated 19.11.2007 passed in WP(C) No.4759/2007 had attained finality as the said order was never recalled. Although the Review Petition No.57 of 2009 along with Misc. Case No.131 of 2008 are shown as disposed of. It will have to be assumed that the prayer for review or recall of the order dated 19.11.2007 passed in WP(C) No.4759/2007 will have to be accepted as rejected.

31] Consequently, the directions containing the order dated 19.11.2007 passed in WP(C) No.4759/2007 had attained finality and the respondent authorities were required to comply with the same. In view of the submission of the learned counsel for the petitioners that prayer (A), namely, "*a Writ in the nature of Certiorari should not be issued in quashing and/or setting aside the impugned Office Memorandum dated 16th June, 2012 (Annexure-23 at Page No.126) issued by the Commissioner and Secretary to the Government of Assam, Finance Department by which regularisation of the services of Muster Roll Workers has been prohibited including the one day posthumous regularisation for the purposes of family pension which has been hitherto in vogue in relaxation of the Pension Rule"* is not pressed in view of the earlier order dated 19.11.2007 passed in WP(C) No. 4759/2007having attained finality, the prayer (B) and (C) are allowed directing the respondents to release the monthly salaries of the petitioners as per the claims raised by them.

32] Accordingly, WP(C) No.2194/2013 stands allowed to the extent indicated above. The Review Petition No.57 of 2009 along with Misc Case No.131 of 2008

as having been shown to be disposed of no separate orders are called for.

33] Insofar as the Contempt Petition No.714/2024 is concerned, it is admitted by the learned counsel for the petitioners that the petitioners had earlier preferred contempt petition, which was subsequently withdrawn although no such copy of the said order has been placed before the Court. Taking into consideration the submissions of the learned counsel for the petitioners, more particularly that Contempt Case No. 714 of 2024 has been filed for wilful disobedience of the directions contained in the order dated 19.11.2007 passed in WP(C) No. 4759/2007, no orders are called for in view of the express limitation prescribed under the Contempt of Courts Act, 1971 and no explanation to that effect having been offered by the petitioners. The contempt petition No.714/2024 also therefore, stands closed. No orders are called for. Notices are issued, if any stands recalled.

34] Interim orders, if any, passed in WP(C) No.2194/2013 stands merged.

35] Pending Interlocutory Application, if any, stands dismissed.

JUDGE

Comparing Assistant