

GAHC010043892021



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

Case No. : WP(C)/1798/2021

TAPAN DAS AND 4 ORS
S/O- LT. NARENDRA DAS, R/O- VILL- KARIKHAI FOREST VILLAGE, P.O.
BAZARICHERRA, P.S. PATHERKANDHI, DIST.- KARIMGANJ, ASSAM

2: GOURANGAREE
S/O- SRI RABI REE
R/O- VILL- HATHIKHIRA 18 NO. LINE
P.O. HATHIKHIRA
P.S. PATHERKANDI
DIST.- KARIMGANJ
ASSAM

3: RATAN AKURA
S/O- LT. SURENDRA AKURA
R/O- VILL- 18 NO. HATHIKHIRA
P.O. HATHIKHIRA
P.S. PATHERKANDI
DIST.- KARIMGANJ
ASSAM

4: BIPLAB NAMASUDRA
S/O- SRI BIDYUTNAMASUDRA
R/O- VILL- HATAIRBOND
P.O. HATHIKHIRA
P.S. PATHERKANDI
DIST.- KARIMGANJ
ASSAM

5: SAMARENDRO KUMAR DAS
S/O- LT. GOPESH CHANDRA DAS
R/O- VILL- SASHI NAGAR
P.O. HATHIKHIRA
P.S. PATHERKANDI
DIST.- KARIMGANJ

ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, FOREST
DEPTT., DISPUR, GHY-06, ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
REHABARI GHY
ASSAM
GHY-08

3:THE DIVISIONAL FOREST OFFICER
KARIMGANJ
ASSAM

4:THE RANGE OFFICER
LOWAIRPOA FOREST RANGE
KARIMGANJ
ASSA

Advocate for the Petitioner : MR. M DUTTA, MR S DAS

Advocate for the Respondent : SC, FOREST,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 30.08.2024

Heard Mr. M. Dutta, learned counsel for the petitioners. Also heard Mr. R.R. Gogoi, learned standing counsel, Forest Department for respondents No. 1 to 4.

2. By filing this writ petition the petitioners have sought for a direction for payment of minimum scale of pay as paid to the casual/muster roll/fixed pay employees of the various departments in the State of Assam.

3. The case, in brief is that petitioners 5 (five) in numbers, all casual labourers/workers, have been engaged by Range Officer, Lowairpoa Range and other beat officers of the Range in the Forest Department, Govt. of Assam, under the Karimganj Division, Assam. They were engaged in the year 1990, 1991 and 1993 as casual labourers in Plantation and Nursery as well as local informer. Though

the engagement of the petitioners were made since 1990's, they have been working regularly since 2005.

4. It is contended that the petitioners are sometimes paid on the basis of sweet will of the authorities with meagre amount with assurance that in future their services would be regularized. The petitioners are also engaged from time to time for duty at check get and river check gate to prevent illegal transportation of forest produce through check gate or Longai river.

5. It is the contention of the petitioners that they are rendering their service as casual labourers and their services are being extracted for various plantation work and other jobs. However, they have not been paid even the minimum wages as has been paid to the other casual workers not to speak of any job security. The petitioners have approached the respondent authorities from time to time for payment of minimum wages or minimum scale of pay. However, as on date, the respondent authorities have not considered, except on a verbal assurance that their grievances will be looked into.

6. It is noticed that the services of the petitioners are being utilized as casual labourers by the respondent authorities in the Forest Department from time to time, by engaging them in various duties without there being any proper remuneration since last so many years.

7. The Hon'ble Supreme Court in the case of *State of Punjab –vs- Jagjit Singh* reported in **2017 (1) SCC 148** has held that any act on the part of the State compelling the employees to take lesser wage by taking advantage of its dominant position constitutes the act of exploitative enslavement which is in violation of Article 21 of the Constitution of India.

8. In the case of *Upen Das –Vs- State of Assam* reported in **2020 (6) GLT 605**, the Division Bench of this Court has directed for payment of minimum pay scale to the muster roll worker, work-charged and other similarly placed employees.

9. It is noticed that in order to ensure some employment and minimum wages, the State has formulated various schemes from time to time. However, no such benefit appears to have been provided to the petitioners, who are being continuously engaged for various works in the Range area of the Forest Department for so many years. The nature of employment of the petitioners being casual, the petitioners although are conscious of their limitation, I am of the considered view that the petitioners are entitled to the minimum wage/minimum scale of pay as their services are being utilized in various works in the Department.

10. It is noticed that during the course of their engagement over so many years, they have been

protecting the Forest reserve and have contributed to the protection of environment and forest reserve.

11. It is to be observed that justice and equity demands that in a welfare state like ours, the State being a model employer, those workers, who are rendering services to the institution or establishment under the direct control and supervision of the State are atleast paid the minimum pay scale/wages. As held by the Hon'ble Supreme Court in the case of **Jagjit Singh (Supra)** the payment of minimum wages is mandated by Article 21 of the Constitution of India to ensure life of meaningful existence. The denial of minimum wages in my considered view would be a violative of Article 14 of the Constitution of India as it is seen that similarly situated casual workers/muster roll workers are being granted the minimum scale of pay, whereas, no such benefits have been granted to the petitioners.

12. Reference may be made to the observation of the Hon'ble Supreme Court in **Jagjit Singh (Supra)** which is quoted as under:-

“In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

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13. In various judgments of the Hon'ble Supreme Court as well as this Court, while considering the plight of casual workers, who were not working in any sanctioned post, the Courts have directed that the casual workers, if performed the same nature of quality and quantity of work as is being performed by regular employee against the same/corresponding post, such persons are to be paid the wages at the minimum of the pay scale as are being extended to the regular employee holding the same post.

14. It is noticed that the petitioners are performing duties which are similar in quality, quantity and nature of the regular employees holding regular post, therefore, the petitioners in my considered view are entitled to the minimum scale of pay.

15. In view of the above discussion and consideration, this Court deem it appropriate to direct the respondent authorities to grant the minimum scale of pay/wages as paid to the casual/muster roll workers/fixed pay employees of various departments in the State.

16. Accordingly, it is directed that the respondent authorities to grant minimum scale of pay to the petitioners as being paid to the casual/muster roll/fixed pay employees of various departments in the State.

17. In terms of the above direction, the writ petition stands allowed and disposed of.

JUDGE

Comparing Assistant