

GAHC010043432017



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

Case No. : WA/285/2017

BAHARUL ISLAM BARLASKAR
S/O MONOJIR ALI BARLASKAR, VILL. SATKARAKANDI PART-I, P.O.
SATKARAKANDI, DIST. CACHAR

VERSUS

THE STATE OF ASSAM and 6 ORS
REPRESENTED BY THE PRINCIPAL SECY. ADDITIONAL CHIEF SECY. TO
THE GOVT. OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPTT.,
ASSAM SECY., DISPUR, GUWAHATI-6

2:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
JURIPAR
P.O. PANJABARI
GUWAHATI-37

3:THE DIRECTOR

PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
ASSAM
JURIPAR
PANJABARI
GUWAHATI-37
ASSAM.

4:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

FINANCE DEPTT.
DISPUR
GUWAHATI-6

ASSAM.

5:THE DEPUTY COMMISSIONER

CACHAR
P.O. SILCHAR
DIST. CACHAR
ASSAM
PIN 788001

6:THE CHIEF EXECUTIVE OFFICER

CACHAR ZILLA PARISHAD
SILCHAR
P.O. SILCHAR
DIST. CACHAR
ASSAM
PIN 788001

7:SONAI ANCHALIK PANCHAYAT

SONAI
P.O- SONAI
DIST- CACHAR
ASSAM REPRESENTED BY THE EXECUTIVE OFFICER CUM BLOCK
DEVELOPMENT OFFICER
SONAI DEVELOPMENT BLOCK

Advocate for the Petitioner : MR. S Y AHMED

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

15.02.2024

(*V. Bishnoi, CJ*)

This intra-court writ appeal is filed by the appellant being aggrieved with the order dated 07.06.2017, passed by the learned Single Judge in WP(C)

4204/2015, whereby the learned Single Judge, while deciding the above-referred writ petition along with other connected writ petitions, had issued the following directions:

“11. After the above discussion, following directions have been issued:-

‘65. Having regard to the discussions made in paragraphs 58 to 63 above, without interfering with the advertisement dated 27.10.2014, which is impugned in WP (C) No.6170/2014, respondents are directed to carry out the aforesaid exercise within a period of 6 (six) months from the date of receipt of a certified copy of this order. Till such decision is taken, members of the petitioner-association who are being paid fixed wages at the rate of Rs.4,500/- per month should continue to be paid the said wages. In so far action against the erring officials are concerned, impugned instructions dated 12.06.2015 and 08.07.2015, would not be applicable to engagement of members of the petitioner-association in the Panchayati Raj Institutions because such institutions are not under the direct control of the Government and are autonomous authorities under Article 243-B of the Constitution and Assam Panchayat Act, 1994. As a matter of fact, engagements of the members of the petitioner-association were on casual basis which was recognized by the Government itself when by the communication dated 25.01.2012, it was decided to pay fixed wages of Rs.4,500/- per month to 1812 numbers of casual workers serving in the Panchayati Raj Institutions. 66. The decision so taken as directed above, shall be notified and communicated to the petitioners.’

12. The above directions would govern the present bunch of writ petitions as well. However, if any claim to engagement and working in Panchayati Raj Institution is found to be not genuine i.e., based on falsehood, question of consideration of such case in the above manner would not arise. However, this must be reflected in the decision so taken.

13. Writ petitions are disposed of in terms of the above directions. No costs.”

2. The appellant was engaged as a Tax Collector cum Road Maherer by the Sonai Gaon Panchayat on 25.03.1993. He preferred a writ petition before this Court seeking a direction to the respondents for regularisation of his services as Grade-III/Grade-IV employee in the Panchayati Raj Institution of the State. Additionally, the advertisement dated 27.10.2014, issued by the Commissioner, Panchayati Raj and Rural Development, Assam, for filling up 28 vacancies in the post of Junior Assistant and 333 vacancies in the post of Tax Collector/Road

Maharer was put to challenge.

3. Assailing the impugned judgment, the learned counsel for the appellant has submitted that the learned Single Judge has erred in not issuing directions for regularisation of the services of the appellant as per the orders issued by the State Government from time to time.

4. Per contra, learned counsel for the respondents have submitted that the services of the appellant are not liable to be regularised and the learned Single Judge has therefore rightly not granted the said relief to the appellant while deciding the writ petitions filed by the appellant and other similarly situated employees. Learned counsel for the respondents have further submitted that the Division Bench of this Court, in the case of ***State of Assam vs. Open Das & Ors.***, reported in ***2020 (5) GLT 605***, has already held that the services of the persons who are engaged on Muster Roll/Work Charged workers cannot be regularised and the only relief which can be granted to them is the minimum of the pay scale of the Muster Roll/Work Charged workers.

5. Learned counsel for the appellant is not in a position to dispute the above proposition of law laid down by the Division Bench of this Court in ***Open Das*** (supra).

6. The Division Bench of this Court in ***Open Das*** (supra), while deciding the writ appeal filed by a large number of Muster Roll/Work Charged workers engaged on casual basis, has held as under:

“22. It is, however, heartening to learn that the State Government has agreed not to terminate the Muster Roll, Work Charged and similarly placed employees working since last more than 10 years (not in sanctioned post) till their normal retirement, except on disciplinary ground or on ground of criminal offences. The State Government has also agreed to enlist such employees in Health and Accidental and Death Insurance Scheme, which will be prepared in consultation with the State Cabinet. We appreciate this positive stand of the State

Government taken a s welfare measures for the betterment and security of the employees, in question. We, accordingly, direct the State Government to implement the measures without further delay. Besides this, we, in the light of decision of the Supreme Court in State of Punjab vs. Jagjit Singh, (2017) 1 SCC 148, also direct the State Government to pay minimum of the pay scale to Muster Roll workers, Work Charged workers and similarly placed employees working since last more than 10 years (not in sanctioned post) with effect from 1.8.2017.

23. For these reasons, we are of the view that in the fact situation of the case, Muster Roll workers, Work Charged workers and Casual workers are not entitled for regularization of their services with consequential benefits, such as, pension etc. We, accordingly, subject to our direction in paragraph 22 of the judgment, allow the appeal and set aside the impugned judgment and order dated 20.1.2.2013 passed by the learned Single Judge.”

7. In view of the above, the writ appeal is disposed of in terms of the decision of the Division Bench of this Court in the case of ***Upen Das*** (supra).

JUDGE

CHIEF JUSTICE

Comparing Assistant