

GAHC010012992024



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

Case No. : WP(C)/374/2024

JADAB CHANDRA KUMAR AND 14 ORS
S/O LATE T. KUMAR, R/O GOTANAGAR, P.O.-MALIGAON, DIST- KAMRUP
(M), GUWAHATI, ASSAM, PIN-781011

2: MD. MUKTAB ALI
S/O LATE JULLAS ALI
R/O VILL AND P.O.-GANDHMOW
SINGIMARI
KAMRUP
ASSAM
PIN-781103

3: NARAYAN DAS
S/O LATE BAPURAM DAS
R/O VILL- ABHAYPUR
P.O.-GERUAH
HAJO
KAMRUP
PIN-781104

4: RAHIMA BIBI
W/O LATE MAHIBULLAH HAQUE
R/O VILL- HALIGAON
P.O.-BIJOYNAGAR
DIST-KAMRUP
ASSAM
PIN-781122

5: NILIMA DAS BORA
W/O LATE LAKHI KANTA BORA
R/O WARD NO. 4
P.O. AND P.S.-GOSSAIGAON
DIST- KOKRAJHAR
ASSAM

PIN-783360

6: JAMUNA SARKAR
W/O LATE RAMA SARKAR
R/O BONGAIGAON NO. 2 BAKHARAPAR
P.O. AND P.S.-BONGAIGAON
DIST- BONGAIGAON
ASSAM
PIN-783380

7: BHAGABAN DEKA
S/O LATE RAMESWAR DEKA
R/O P.O.-HARIBHANGA
P.S.-TIHU
DIST- NALBARI
ASSAM
PIN-781378

8: HARBAN SINGH
S/O LATE PRATAP SINGH
R/O VILL AND P.O.-BARKOLA
P.S.-SADAR
NAGAON
ASSAM
PIN-782114

9: AKANI RAJKHOWA
W/O LATE BIDYADHAR RAJKHOWA
R/O VILL-TENGAMARI
TEKELAGAON
P.O. AND P.S.-BARBARUAH
DIST-DIBRUGARH
ASSAM
PIN-786004

10: MD. RAFIQUE ALI
S/O LATE JAMIR ALI
R/O VILL- BANGAON
P.O.-BANAGRAM
P.S.-BELSOR
DIST- NALBARI
ASSAM
PIN-781303

11: BHABENDRA DEKA
S/O LATE GONESWAR DEKA
R/O WARD NO. 1 JYOTINAGAR PATHSALA
P.S.-PATACHARKUCHI

DIST-BAJALI
ASSAM
PIN-781325

12: CHANDRA NATH KONWAR
S/O LATE D. KONWAR
R/O VILL- NIZLALUK
P.O. AND P.S.-LALUK
DIST-LAKHIMPUR
ASSAM
PIN-784160

13: HIMESWAR BORAH
S/O LATE TANKESWAR BORAH
R/O P.N.G.B. ROAD
P.O. AND P.S.-TEZPUR
DIST-SONITPUR
ASSAM
PIN-784001

14: DINESH BEZBARUAH
S/O LATE LAKHI NATH BEZBARUAH
R/O KOMAR CHUBURI USHA NAGAR BY-LANE-2
P.O. AND P.S.-TEZPUR
DIST-SONITPUR
ASSAM
PIN-784001

15: JAGAT CHANDRA NATH
S/O LATE JOGESWAR NATH
R/O BOGA BURA CHUBURI
P.O.-BESERIA
P.S.-TEZPUR
DIST-SONITPUR
ASSAM
PIN-78405

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-781006, ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

ASSAM

3:THE SECRETARY TO THE GOVERNMENT OF ASSAM
IRRIGATION DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

4:THE ASSAM STATE MINOR IRRIGATION DEVELOPMENT CORPORATION
LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR
ASSAM STATE MINOR IRRIGATION DEVELOPMENT CORPORATION
LIMITED
ULUBARI
GUWAHATI-781007
ASSAM

5:THE MANAGING DIRECTOR
THE ASSAM STATE MINOR IRRIGATION DEVELOPMENT CORPORATION
LIMITED
ULUBARI
GUWAHATI-781007
ASSA

Advocate for the Petitioner : MR P BHARDWAJ

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

05.02.2024

Heard Mr. P. Bhardwaj, learned counsel for the petitioner. Also heard Mr. A. Chakraborty, learned Government Advocate, Assam for the respondent no.1, Mr. R. Borpujari, learned Standing Counsel, Finance Department for the respondent no.2 and Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department for

the respondent nos. 3, 4 & 5.

It is submitted that the issues involved in this writ petition are akin to the issues which were decided by a Co-ordinate Bench of this Court in WP(C) No.5836/2022 by the Judgment and Order dated 24.07.2023. The relevant portion of the said Judgment and Order dated 24.07.2023 is extracted below:

“The writ petitioners herein were all employees of the Assam State Minor Irrigation Development Corporation Limited (ASMIDC) which went into liquidation. Consequently, the 302 employees of the ASMIDC were offered Voluntary Retirement Scheme (VRS) which was notified by the departmental Secretary on 13.05.2005. The scheme was subsequently revised by the department vide notification dated 15.02.2006. Accordingly, benefits under the VRS Scheme was extended to all the 302 numbers of employees including the writ petitioners. However, the respondents have failed to pay the amount due and payable as House Rent Allowance (HRA), Medical Allowance (MA) and City Compensatory Allowance (CCA) although the aforesaid allowances, according to the petitioners, were included in the terms and conditions of the VRS scheme. Hence, this writ petition.

It appears that earlier a group of similarly situated former employees of ASMIDC had approached this Court by filing WP(C) No.9562/2019 which was disposed of by the learned Single Judge by order dated 13.05.2022 by accepting their similar claim for payment of HRA, MA and CCA. Mr. Bharadwaj submits that the case of the present petitioners is squarely covered by the judgment and order dated 13.05.2022 and therefore, this writ petition be also disposed of with a similar direction.

Mr. H. Sarma, learned Addl. Sr. Govt. Advocate, Assam as well as Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department, Assam have also fairly submitted that the case of the petitioners would be covered by the judgment and order dated 13.05.2022 passed by this Court. However, the learned departmental counsel could not confirm as to whether, the aforesaid order of this Court has already been implemented by the departmental authorities or not.

Be that as it may, I find from the materials available on record that the writ petitioners in WP(C) No.9562/2019 had also prayed for a direction for payment of HRA, MA and CCA against the same authority. They were also amongst the 302 regular employees of the ASMIDC who were covered under the VRS Scheme notified on 13.05.2005, which was revised by the department vide notification dated 15.02.2006. Taking note of the prayer made in the writ petition, the learned Single Judge, by the judgment and order dated 13.05.2022 had passed the following directions disposing of the writ petition :-

“11. In that view of the matter, it is held that the petitioners are entitled for HRA, MA and CCA and the same need to be calculated and included in salary for purpose of declaring VRS benefits and accordingly, the respondent Irrigation Department is directed to consider the case of the petitioner in the aforesaid term and if HRA, MA and CCA as per the clause 1(e) of the VRS scheme dated 15.02.2006 has not been paid, the same be paid within a period of two months from receipt of certified copy of this order to be furnished by the petitioners before the respondent authority.”

Since there is no dispute at the bar that the writ petitioners herein are also similarly situated employees of ASMIDC having similar nature of grievance, hence, I do not find any justifiable ground to deny a similar relief to the writ petitioners. The writ petition is, therefore, disposed of by providing that the prayer of the petitioners for consideration of HRA, MA and CCA as per clause 1(e) of the VRS Scheme dated 15.02.2006 be considered and the amount found due may be paid to them within a period of three months from the date of receipt of a certified copy of this order. With the above observation, the writ petition stands disposed of.”

Mr. R. Borpujari, learned Standing Counsel, Finance Department for the respondent no.2 and Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department for the respondent nos. 3, 4 & 5 do not object to the submissions made by the learned counsel for the petitioner.

Upon perusal of the Judgment and Order dated 24.07.2023 passed in WP(C) No.5836/2022 it is seen that the issues raised in the present writ petition

stands squarely covered by the judgment and order dated 24.07.2023 passed in WP(C) No.5836/2022. As such, this Court is of the considered view that the issues in the writ petition too will be covered by the Judgment and Order dated 24.07.2023 passed in WP(C) No.5836/2022.

Accordingly, the writ petition stands disposed of. The claims of the petitioners will be addressed in terms of the finding contained in the Judgment and Order dated 24.07.2023 passed in WP(C) No.5836/2022.

JUDGE

Comparing Assistant