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

Case No. : WP(C)/1081/2025

SRI DEVA KANTA BORO
S/O LATE BOGARAM BORO,
RESIDENT OF VILLAGE MAGURMARI, PO RAJAPATHAR, PS HOWRAGHAT,
DIST KARBI ANGLONG, ASSAM

2.1: ON THE DEATH OF PROBIN SAIKIA
HIS LEGAL HEIRS- 2.1. JUNMONI SAIKIA
W/O LATE PROBIN SAIKIA

RESIDENT OF VILLAGE BOKULIA
PO BOKULIA
PS HOWRAGHAT
DIST KARBI ANGLONG
ASSAM

2.2: HIRAKJYOTI SAIKIA
S/O LT. PROBIN SAIKIA
R/O VILL BOKULIA
P.S. HOWRAGHAT
DIST- KARBI ANGLONG
ASSA

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM (PHE)
DEPARTMENT, DISPUR GUWAHATI 06

2:THE SECRETARY TO THE GOVT OF ASSAM
FINANCE DEPARTMENT D
DISPUR
GUWAHATI

3:THE ACCOUNTANT GENERAL

MAIDAMGAON
BELTOLA
GUWAHATI 29

4:THE CHIEF ENGINEER
PHE

HENGRABARI
GUWAHATI 36

5:THE DISTRICT COMMISSIONER
DIPHU
PO DIPHU
KARBI ANGLONG
ASSAM 782460

6:THE KARBI ANGLONG AUTONOMOUS COUNCIL
REP.BY ITS SECRETARY
PO DIPHU
KARBI ANGLONG
ASSAM 782460

7:THE SECRETARY PHE I/C KARBI ANGLONG AUTONOMOUS COUNCIL
PO DIPHU
KARBI ANGLONG
ASSAM 782460

8:ADDITIONAL CHIEF ENGINEER PHE
RURAL WATER SUPPLY DIVISION
PO DIPHU
KARBI ANGLONG
ASSAM 782460

9:THE EXECUTIVE ENGINEER
PHE
RURAL WATER SUPPLY DIVISION
DIPHU
PO DIPHU
KARBI ANGLONG
ASSAM 782460

10:THE TREASURY OFFICER
PO DIPHU, KARBI ANGLONG
ASSAM 78246

Advocate for the Petitioner : MR A HAWARI, MR. S ISLAM,A R MONDAL
Advocate for the Respondent : GA, ASSAM, MR. S K MEDHI (SC,AG (A AND E)),SC, P H E,SC, K A A C,SC, AG (A AND E),SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.10.2026

Heard Shri S. Islam, learned counsel for the petitioners. Also heard Shri J. Chutia, learned Senior Counsel for the KAAC assisted by Ms. S. Kemprai; Shri S. Sarma, learned counsel appearing for the PHE; Shri A. Chakraborty, learned State Counsel; Ms. R. Dutta, learned counsel appearing on behalf of Shri S. K. Medhi, learned Standing Counsel, Accountant General, Assam.

2. The instant writ petition has been filed with the following prayer:

> "*Under the above facts and circumstances, it is therefore prayed that your Lordships would graciously be pleased to admit this petition, issue notice to the respondent authorities, call for the records, issue rule, calling upon the*
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> *Respondents to show cause as to why a writ in the nature of Mandamus and/or any other appropriate writ, order or direction shall not be issued thereby directing the Respondent authorities to release the arrear salaries of the petitioners since Octber, 2019 as well as current salaries and other service and/or cause or causes shown if any and after perusal of the records and hearing the parties, your Lordships may be pleased to make the rule absolute as prayed for and/or pass such further Order /Orders as your Lordship's may deem fit and proper for the interest of justice."*

3. As per the facts projected, the petitioners, who are 2 in nos. who are engaged as Sectional Assistant under the Executive Engineer (PHE), Diphu Rural Water Supply Division vide appointment letters dated 30.01.2008 and 22.02.2008. Since their appointments, the petitioners claim to have been discharging the duties sincerely and to the satisfaction of all concern and had received their salaries regularly till September, 2019. However, the salaries have

been stopped since October, 2019. The petitioners had accordingly represented including submission of one representation before the Deputy Commissioner, Karbi Anglong who accordingly had sought the report from the Executive Engineer, PHE vide communication dated 13.12.2022. The Executive Engineer, PHE had replied to the communication on 06.02.2023 stating that the petitioners initial engagement were against personal post and on initiation of the FinAssam Services, the same being detected, their engagement were discontinued. It is with this cause of action that the instant writ petition has been filed.

4. Shri Islam, the learned counsel for the petitioners has submitted that for all purposes, the petitioners were treated as regular employees as their Service Books were opened and they were also given increments from time to time. He has also submitted that no termination letter has been issued and therefore the claim for the salaries is legitimate.

5. By drawing the attention of this Court to the averments made in paragraph 8 of the writ petition, the learned counsel for the petitioners has submitted that there is a clear statement that the petitioners have been discharging their duties regularly since 2008 and salaries were paid till September, 2019 and without any reason, the salaries have been stopped. He has also submitted that the representation of the petitioners were acted upon by the Deputy Commissioner, who had called for a report and despite there being a response by the Executive Engineer, PHE dated 06.02.2023 no action was taken. As a matter of fact, even after the initiation of the FinAssam services, the petitioners had got their salaries for four more months till September, 2019 and therefore it would not lie on the part of the respondents to deny the salaries beyond October, 2019.

6. *Per contra*, Shri Chutia, the learned Senior Counsel representing the KAAC,

by drawing the attention of this Court to the affidavit-in-opposition filed on 10.08.2026 has submitted that the services of the petitioners were not continued after September, 2019. He has drawn the attention of this Court to the averments made in paragraph 7 of the said affidavit which reads as follows:

> "*7. That the deponent begs to state that the salaries of the petitioners were paid from the dates of their initial engagement until September 2019. However, upon implementation of the Fin Assam online salary management system, it was found that no Government sanction had been issued for continuation of the petitioners' appointments against the expired personal posts, such sanction being mandatory for drawal of salary. Consequently, disbursement of their salaries was discontinued through the online system. It is pertinent to state that, thereafter, the petitioners were not engaged in any official work by the answering respondent. No termination orders were, however, issued, as the matter had already been referred to the higher authorities for an appropriate decision and clarification.*"

7. He has submitted that upon implementation of the FinAssam Online Salary Management System, it was found that there was no Government sanction to the appointments of the petitioners to the posts which were personal. He has also referred to the appointment letters which themselves makes it clear that the appointments were made against vacancies which had arisen on expiry of the earlier incumbent and were personal to them. He submits that there being no sanction and the post being personal in nature, the same is not liable to be continued after implementation of the FinAssam Online Salary Management System and accordingly the petitioners services were discontinued and the salaries have been stopped.

8. Though the petitioners have filed an affidavit-in-reply, this Court has noticed that there is no specific denial or rebuttal of the statement that the petitioners were discontinued from their services as mentioned in paragraph 7 of the affidavit-in-opposition. For the sake of clarity, the rejoinder made by the

petitioners to paragraph 7 reads as follows:

> "*6. That with regard to the statements made in paragraph No. 7 of the affidavit-in-opposition, the deponent denies the same and begs to state that the deponent and Petitioner No. 2 received their salaries continuously till September, 2019 from the date of their initial appointment in the year 2008. The Respondent No. 9 i.e the Executive Engineer (PHE), Diphu Rural Water Supply Division issued Order dated 20/08/2013 thereby granted annual increment @of 3% of basic pay w.e.f 01/07/2013. Moreover, the Respondent No. 9 vide Order dated 18/06/2017 granted revised pay to the deponent and Petitioner No. 2 w.e.f 01/04/2016 as per Assam Service ROP Rules, 2017. The writ petitioners also received their salaries from May, 2019 to September, 2019 after implementation of the Fin Assam Online Salary Management System and names of the writ petitioners are available in Fin Assam Online Salary Management System.*"

9. While the petitioners have claimed for the salaries from October, 2019, the aspect as to whether they are discharging the duties would be in the realm of disputed questions of fact. There is a clear statement by the KAAC authorities on the aspect of discontinuation of service of the petitioners as made in paragraph 7 of the affidavit-in-opposition which have been quoted above and strangely, there is no specific denial of the said statement in the rejoinder affidavit.

10. In any event, this Court has noticed that the very appointments of the petitioners were against vacancies arising out of the expiry of the earlier incumbent and were personal in nature. There is a clear statement that after implementation of the FinAssam Management System, the aspect as to whether there was sanction in the initial appointment would be a relevant aspect which admittedly was not there in the present case. That apart, the issue as to whether the petitioners services have been rendered post October, 2019 is itself disputed.

11. In view of the above, this Court is not in a position to grant any relief to the petitioner.

12. The writ petition is accordingly dismissed.

13. This Court however gives liberty to the petitioners that if they are actually working which would be a question of fact, the petitioners can approach the appropriate Civil Court to prove the same and make the claim for the salaries for the period their services were utilised in accordance with law, if so advised.

JUDGE

Comparing Assistant