GAHC010158142018

2026:GAU-AS:14382

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

Case No. : WP(C)/4871/2018

RANJAN JYOTI SARMA AND ANR.
S/O. SRI KHAGENDRA NATH SARMA, R/O. VILL. NARENGKHATI, DHEKIAJULI UNDER P.O. AND P.S. DHEKIAJULI IN THE DIST. OF SONITPUR, ASSAM.

2: TULUMONI SARMA
S/O. SRI JOGESH CHANDRA SARMA
R/O. VILL.MAKHIBAHA
TIHU UNDER P.O. MAKHIBAHA
P.S. TIHU IN THE DIST. OF NALBARI
ASSAM. PIN 784001

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM IN THE DEPTT. OF SOCIAL WELFARE, DISPUR, GUWAHATI-6 IN THE DIST. OF KAMRUP(METRO), ASSAM.

2:THE DIRECTOR OF SOCIAL WELFARE
GOVT. OF ASSAM
HAVING ITS OFFICE AT MG ROAD
UZAN BAZAAR UNDER P.O. UZAN BAZAAR
P.S. LATASIL IN THE DIST. OF KAMRUP(METRO)
ASSAM. PIN 781001.

3:THE DISTRICT SOCIAL WELFARE OFFICER
SONITPUR
AT TEZPUR UNDER P.O. AND PS TEZPUR IN THE DIST. OF SONITPUR
ASSAM. PIN 784001

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners : Shri G. Choudhury, Advocate.
Advocate for the respondents : Shri D. Borah, GA, Assam.

Date of hearing & judgment : **28.09.2026**

Whether the pronouncement is of the operative part of the judgment? : NA
Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

The approach of the 2 nos. of petitioners to this Writ Court is with the following prayers:

> " *In the premises aforesaid, it is most respectfully prayed that Your Lordships may be graciously pleased to admit this petition, issue rule calling upon the respondents to produce the records and to show cause as to why necessary writ, direction and/or orders shall not be passed as follows: -*
> *I) A writ of mandamus, and/or direction to the respondents to enhance the remuneration of the petitioners to bring it at par with the similarly situated Statistical Assistants appointed out of the Selection cum Merit List dated 15-02-2005 arising out of the same selection process with effect from 16.12.2012.*
>
> *II) A writ of certiorari quashing and setting aside the decision to pay a lower remuneration to the petitioners as against the similarly situated candidates working as Assistants in various projects in Assam under the Department of Social Welfare, Govt. of Assam selected and appointed vide the same Selection cum Merit List dated 15-02-2005 arising out of the same selection process with effect from 16.12.2012.*
>
> *III) Pass such other / orders as may be deemed fit and proper in the facts and circumstances of the case."*

2. As per the facts projected, pursuant to a recruitment drive for the post of Statistical Assistants in the Social Welfare Department, the petitioners had participated and were placed in Sl. Nos. 8 & 9 in the merit list. However, the petitioners had noticed that persons outside the select list were appointed depriving the petitioners and accordingly they had instituted WP(C)/35/2007 before this Court. The said writ petition was disposed of vide an order dated 20.10.2011 directing the respondents to pass a speaking order. The matter was accordingly considered by the Commissioner of the Department and a speaking order was passed on 16.02.2012 recognising the rights of the petitioners. Subsequently, vide orders dated 12.12.2012, the petitioners were appointed as Statistical Assistants.

3. The grievance of the petitioners, as would be reflected from the relief quoted above is not giving the same benefits to those outside the list or below them who were appointed at an earlier point of time.

4. I have heard Shri G. Choudhury, learned counsel for the petitioners. I have also heard Shri D. Borah, learned State Counsel.

5. Shri Choudhury, the learned counsel for the petitioners has submitted that for no fault of the petitioners, their appointments were delayed. He has also submitted that the rights of the petitioners were recognised by the Court in the earlier writ petition and pursuant to the order dated 20.10.2011, the Commissioner of the Department had enquired in the matter and had passed a speaking order leading to their appointment on 12.12.2012. He submits that the delay in their appointment is not at all attributable to any fault on the part of the petitioners and therefore they cannot be deprived of their entitlements pertaining to their service.

6. The learned counsel for the petitioners has also relied upon a judgment passed by a Coordinate Bench in the case of ***Samiul Islam Vs State of Assam & Ors.*** reported in ***2016 (5) GLT 489*** which was instituted by a similarly placed person. This Court had directed that the petitioners would be entitled to the notional benefits for the earlier period.

7. Shri Borah, the learned State Counsel, by referring to the affidavit-in-opposition filed on 01.03.2024 has submitted that the claim of the petitioners may not be maintainable inasmuch as they were borne in the *cadre* only on 12.12.2012 which is the date of appointment and therefore benefits for an earlier period would not be entitled to them. He has also highlighted the aspect of the principles of no work no pay.

8. Shri Choudhury, the learned counsel for the petitioners has submitted that a rejoinder affidavit has been filed on 12.02.2026.

9. From the facts and circumstances, pleaded by the parties and from the arguments advanced, it appears that there is no dispute to the fact that the petitioners were selected in the recruitment and were placed against Sl. Nos. 7 & 8 of the merit list. However, there was delay in their appointment and other persons were found to be appointed leading to filing of WP(C)/35/2007, as mentioned above. This Court had passed an order dated 20.10.2011 to consider the matter and pass a speaking order. In this connection, the speaking order passed by the Commissioner on 16.02.2012 would attain significance inasmuch as the Commissioner had recognised the rights of the petitioners and had, in fact directed for their appointment which were accordingly done on 12.12.2012.

10. This Court is of the considered opinion that the delay in appointment of the petitioners cannot be attributed to any fault on them and rather the fault

clearly appears to be of the Department which has been rectified pursuant to the direction passed by this Court in the earlier round of litigation.

11. Under those circumstances, while the learned State Counsel may have some substance in contending that the doctrine of no work no pay would be applicable, it would be unfair not to give the notional benefits to the petitioners from the date when persons below them in the select list or persons outside the select list were given the benefits of such appointments.

12. This Court is also fortified by the order dated 21.09.2016 passed by a Co ordinate Bench in a similar issue and would endorse the directions passed vide order dated 21.09.2016 disposing of the said writ petition.

13. In the conspectus of the aforesaid discussions, the writ petition is disposed of by directing the respondent authorities to give the notional benefit to the petitioners from the date of the appointment of the persons below them in the select list or outside the select list. It is needless to state that the actual pay would be from the date when the petitioners had joined their respective posts.

14. Writ petition stands allowed in the manner indicated above.

JUDGE

Comparing Assistant