

GAHC010011272022



undefined

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

Case No. : WP(C)/1111/2022

BHAGABAN KALITA

S/O. LT. SARBESWAR KALITA, A PERMANENT R/O. LATAKATA, P.O./P.S. BASISTHA, GUWAHATI-781029, DIST. KAMRUP (M), ASSAM, REP. FOR AND ON BEHALF OF THE 15 (FIFTEEN) ORS. OF (DEVCROP EMPLOYEES ASSOCIATION), A REGD. ASSOCIATION VIDE NO.1774 OF 1998 WITH ITS OFFICE AT SAWKUCHI, NH-37, OPP. SARUSAJAI NATIONAL STADIUM COMPLEX, GUWAHATI-34, AFFILIATED TO CENTRE OF INDIAN TRADE UNION (CITU).

VERSUS

THE STATE OF ASSAM AND 6 ORS.

REP. BY THE COMM. AND PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, SOIL CONSERVATION DEPTT., C-BLOCK, 3RD FLOOR, ASSAM SECRETARIAT, DISPUR, GUWAHATI-781006, DIST. KAMRUP (M), ASSAM.

2:THE STATE OF ASSAM

REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
PUBLIC ENTERPRISE DEPTT.

C BLOCK
3RD FLOOR
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
KAMRUP (M)
ASSAM.

3:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
SOIL CONSERVATION DEPTT.
C BLOCK

3RD FLOOR
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
KAMRUP (M)
ASSAM.

4:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
PUBLIC ENTERPRISES DEPTT.
C BLOCK
3RD FLOOR
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
KAMRUP (M)
ASSAM.

5:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
KAMRUP (M)
ASSAM.

6:THE STATE OF ASSAM

REP. BY THE DIRECTOR OF SOIL CONSERVATION DEPTT. OF ASSAM
BHUMI SANGRAKSHAN BHABAN
R.G. BORUAH ROAD
GUWAHATI-781006
DIST. KAMRUP (M)
ASSAM.

7:THE MANAGING DIRECTOR

ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION LTD.
OPPOSITE SARUSAJAI NATIONAL STADIUM COMPLEX
P.O. SAWKUCHI
P.S. BASISTHA
NH-37
LAKHARA
GUWAHATI-781040
DIST. KAMRUP (M)

ASSAM

Advocate for the Petitioner : MR I C GOGOI, MR. A BHATTACHARYYA,MR A B DUTTA,MR K BARMAN,MR A SHARMA,MR. P KALITA

Advocate for the Respondent : GA, ASSAM, MR. S R RABHA, SC, SOIL CONSERVATION DEPTT, ASSAM,MR B GOGOI, SC, SOIL CONSERVATION DEPARTMENT.,SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 06.01.2025

Heard Mr. A. Bhattacharyya, learned counsel for the petitioner; Mr. S.R. Rabha, learned Standing Counsel, Soil Conservation Department; and Mr. R.B. Goswami, learned counsel appearing on behalf of Ms. M.D. Borah, learned Standing Counsel, Public Enterprises Department.

2. The petitioners are serving as regular employees in the Assam Plantation Crops Development Corporation Limited and they have opted for voluntary retirement by submitting applications in the year 2021.

3. Mr. Bhattacharyya, learned counsel for the petitioner has submitted that the State Government in the Public Enterprises Department in the year 2008 had taken a conscious policy decision to close down a nos. of State Public Sector Undertakings [PSUs] as unviable PSUs and to off-load the employees/workers by paying their salaries/wages/dues and ex-gratia under a revised VRS policy notified on 15.02.2006. To that effect, an Office Memorandum dated 15.05.2008 [Annexure-R] had been issued by the Public Enterprise Department, Government of Assam. As per the said Office Memorandum, the VRS will be funded from Government of Assam budget and the detailed VRS calculation sheets are to be submitted to the Government for

verification by the Chief Executive Officers [CEOs]/Managements of the PSU which were to be closed down.

4. The applications submitted by the petitioners herein, 16 [sixteen] in nos., for VRS came to be considered by the Management of the Assam Plantation Crops Development Corporation Limited in its Board Meeting on 05.04.2022 and by Agenda no. 29, the Board accorded its approval to forward the applications of the petitioners for VRS to the Soil Conservation Department, Government of Assam.

5. It further transpires from the Office Letter dated 22.11.2022, the cases of the petitioners have been forwarded to the Soil Conservation Department for necessary action.

6. By Office Memorandum dated 15.05.2023 of the Administrative Department, PSUs were requested to follow the guidelines while making payment of ex-gratia and other dues to the employees/workers who opted for voluntary retirement under the revised VRS policy.

7. Thus, it transpires that in cases of the petitioners herein, it is the Administrative Department, that is, the Soil Conservation Department and the Assam Plantation Crops Development Corporation Limited who are required to take necessary steps/decision for implementation of the policy framed by the Office Memorandum dated 15.05.2023, if the same is applicable.

8. As despite approval to the applications of the petitioners by the Board of Assam Plantation Crops Development Corporation Limited on 05.04.2022, the VRS dues have not been disbursed, the petitioners have approached this Court by the instant writ petition.

9. The Communication bearing no. Soil.505404/129 dated 18.12.2024 of the

Soil Conservation Department, Government of Assam, placed before this Court by Mr. Rabha today, appears to be vague to answer the issue raised by the petitioner herein.

10. Mr. Rabha, learned Standing Counsel, Soil Conservation Department shall obtain definite instructions as to whether, *firstly*, the policy decision notified by the Office memorandum dated 15.05.2023 is applicable in case of the petitioners; and *secondly*, if yes, whether the Soil Conservation Department has taken needful action required on its part as per the Office Memorandum dated 15.05.2023 and other consequential OMs/Notifications/Circulars etc. issued to that effect.

11. List the case on 05.02.2025.

JUDGE

Comparing Assistant