

GAHC010028792026



2026:GAU-AS:11948-DB

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

Case No. : WP(C)/1580/2026

1: UNION OF INDIA AND OTHR, REPRESENTED BY THE GENERAL
MANAGER NORTH EAST FRONTIER RAILWAY, MALIGAON, GUWAHATI ,
PIN-781011

2: THE GENERAL MANAGER (P)
NORTH EAST FRONTIER RAILWAY MALIGAON GUWAHATI-11

3: DIVISIONAL RAILWAY MANAGER
NORTH EAST FRONTIER RAILWAY ALIPURDUAR JN PIN-736123

4: SENIOR DIVISIONAL FINANCE MANAGER
NORTH EAST FRONTIER RAILWAY ALIPURDUAR JN PIN-73612

VERSUS

1: SRI BRAJESH KUMAR SUMAN
S/O SHRI MADON PRASAD DAS, CHIEF LOCO INSPECTOR,
O/O SENIOR DME, ALIPURDUAR JUNCTION, ALIPURDUAR, WEST
BENGAL, PIN 736123

2:DIVISIONAL RAILWAY MANAGER (P)MANAGER
NORTH EAST FRONTIER RAILWAY ALIPURDUAR JN PIN-73612

Linked Case : WP(C)/1676/2026

1: THE UNION OF INDIA AND ORS. REPRESENTED BY THE GENERAL
MANAGER NORTH EAST FRONTIER RAILWAY MALIGAON GUWAHATI
-781011

2: THE GENERAL MANAGER (P) ORTH EAST FRONTIER RAILWAY
MALIGAON GUWAHATI-781011.

3: DIVISIONAL RAILWAY MANAGER (P)
N.F. RAILWAY ALIPURDUAR JUNCTION PIN- 736123

4: SENIOR DIVISIONAL FINANCE MANAGER
N.F. RAILWAY ALIPURDUAR JUNCTION PIN- 736123

VERSUS

SHRI SURENDRA KUMAR GOND
S/O- SHRI DEENA NATH. LOCO PILOT (PASSENGER).
OFFICE OF THE CHIEF LOCO INSPECTOR / IC / APDJ AT NJP
P.O.-SILIGURI TOWN PIN- 734004.

For the Petitioner(s) : Mr. R.K.D. Choudhury, Sr. Advocate/Deputy Solicitor General of India, assisted by Ms. L. Devi, Advocate.

For the Respondent(s) : Mr. S. Choudhury, Advocate.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

21.08.2026

(Ashutosh Kumar, CJ)

Both the writ petitions have been heard together and are being disposed off by this common order.

We have heard Mr. R.K.D. Choudhury, learned Senior Advocate and Deputy Solicitor General of India, assisted by Ms. L. Devi, learned Advocate for the petitioners and Mr. S. Choudhury, learned Advocate for the respondents in both the writ petitions.

The challenge in the afore-noted 2(two) writ petitions is to the orders dated 22.05.2025 and 23.05.2025 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati (*hereinafter to be referred as the "Tribunal"*) in O.A. No.75/2022 and O.A. No.74/2022, respectively.

The respondent in WP(C) No.1580/2026, i.e. Shri Brajesh Kumar Suman, had been appointed as Assistant Loco Pilot in the year 2002 and

was promoted to the post of Senior Assistant Loco Pilot in the year 2006 and the respondent in WP(C) No.1676/2026, i.e. Shri Surendra Kumar Gond, had been appointed as Assistant Loco Pilot in the year 2008 and was promoted to the post of Senior Assistant Loco Pilot in the year 2009.

With the implementation of the recommendations of the 6th Pay Commission in the year 2008, the pay of the respondents had been fixed at a level which were later found to be incorrect. It was found out with respect to many of such employees, including the respondents, that 1(one) increment had wrongly been given, which was against the Railway Board's instructions. A decision, therefore, was taken by the petitioner/Railway to refix the pay of the respondents with effect from 2006 by deducting 1(one) increment, which had allegedly been wrongly given to them. The ultimate effect of this decision was reduction of the basic pay of the respondent in WP(C) No.1580/2026 from Rs.78,800/- to Rs.72,100/- and in respect of the respondent in WP(C) No.1676/2026 from Rs.58,600/- to Rs.56,900/- as on 01.07.2021. A sequel order was passed for the recovery of the excess amount paid to the respondents over a period of 15(fifteen) years, by deducting the excess amount in 60(sixty) equal installments.

In case of the respondents, some recovery had already been made from the salary between September, 2021 and February/March, 2022.

Under such circumstances, the respondents approached the Tribunal contending that such recovery, especially after lapse of more than 15(fifteen) years, was harsh and, perhaps, unjustified. Their contentions were buttressed by the judgment of the Supreme Court in

the case of ***State of Punjab & Ors. -Vs- Rafiq Masih (White Washer) :: (2015) 4 SCC 334.***

The Tribunal quashed all the impugned orders of pay re-fixation and recovery so far as the respondents are concerned and directed the petitioner/Railway to restore the original/higher pay of the respondents and refund the already recovered amount within 4(four) months.

The petitioners have challenged such order on the ground that while recovery of excess pay from Group-C employees after many years may not be justified, however, there should not be any bar on correcting a wrong pay fixation done at some point of time in the past, especially when such pay fixation was wrongly done against the Railway Board's instructions.

Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India has submitted that such decision was taken not only with respect to the respondents in these 2(two) writ petitions but also for approximately 48(forty-eight) other similarly situated employees. It has further been submitted that restoring such wrong fixation of pay scales of these respondents would create a serious anomaly in the Railway Administration.

Considering the afore-noted submission, we find that the Tribunal was absolutely justified in directing for stoppage of recovery of the excess amount paid to the respondents for the reason that such recovery had been done after 15/17 years of the payment as also for the reason that the respondents belong to Group-C category, but the direction for restoring the wrongly fixed pay level of these 2(two) respondents is not justified in view of the fact that allowing such wrong fixation of pay would

create serious anomaly in respect of similarly situated employees.

A wrong fixation, on discovery, can always be rectified provided the employees/respondents are not saddled with unnecessary burden, especially when there is no fault on their part.

We, thus, modify the orders passed by the Tribunal to the extent that the pay scales of the respondents, which had been wrongly fixed earlier, would not be restored, but no recovery of the excess payment made to the respondents shall be made. If at all any recovery has been made from the salary of the respondents, that shall be refunded in the account of the respondents within a period of further 8(eight) weeks.

The writ petitions are thus partially allowed and disposed off by modifying the orders passed by the Tribunal in respect of the respondents.

JUDGE

CHIEF JUSTICE

Comparing Assistant