GAHC010028022025

2026:GAU-AS:10366

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

Case No. : WA/156/2025

SMTI GEETA BARMAN
WIFE OF LATE SUTKU BARMAN RESIDENT OF VILLAGE- PADMABIL P.O-GOSSAIGAON P.S-GOSSAIGAON DIST-KOKRAJHAR, ASSAM. PIN- 783361.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, PUBLIC WORKS DEPARTMENT ASSAM SACHIBALAYA, DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-6.

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT ROAD CHANDMARI
GUWAHATI-3.

4:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
KOKRAJHAR RURAL ROADS DIVISION
P.O. KOKRAJHAR
PIN - 783361 DIST. KOKRAJHAR
ASSAM

5:THE ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT GOSSAIGAON ROADS SUB-DIVISION
P.O. GOSSAIGAON
PIN- 783361 DIST. KOKRAJHAR
ASSAM

6:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE
ASSAM SACHIVALAYA
DISPUR
GUWAHATI - 781006.

7:THE ACCOUNTANT GENERAL A AND E
MAIDAMGAON
BELTOLA
GUWAHATI-781029
ASSA

Linked Case : WA/17/2026

SMT MANDRILA BASUMATARY
WIFE OF LATE BIDANG BASUMATARY RESIDENT OF VILLAGE-TENGAPARA P.O- KOKRAJHAR MB
WARD NO. 5
P.S- KOKRAJHAR DIST-KOKRAJAR
ASSAM. PIN-783361

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
PUBLIC WORKS DEPARTMENT ASSAM SACHIBALAYA
DISPUR
GUWAHATI-6.

2:THE SECY. TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPTT.
ASSAM SACHIBALAYA
DISPUR
GUWAHATI 6

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPTT. (BUILDING)
CHANDMARI GUWAHATI 3

4:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT.
KOKRAJHAR
PIN 783370
DIST. KOKRAJHAR

ASSAM.

5:THE ASSTT. EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT.
KOKRAJHAR BUILDING SUB DIVISION
P.O. KOKRAJHAR
PIN 783370
DIST. KOKRAJHAR
ASSAM.

6:THE SECY. TO THE GOVT. OF ASSAM
DEPTT. OF FINANCE
ASSAM
SACHIBALAYA
DISPUR
GUWAHATI 781006

7:THE ACCOUNTANT GENERAL (A AND E)
MAIDAMGAON
BELTOLA
GUWAHATI 781029
ASSAM.

Linked Case : WA/392/2015

THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-6

VERSUS

RATAN BASUMATARY and 9 ORS.
S/O BHUSHAN BASUTMOTARY
VILL. JYOTISHPUR
P.O. KONPATANI
DIST. DHEMAJI
ASSAM.

2:BHUPEN DAS
S/O MAYA RAN DAS
VILL. CHOUDHURYKHAT
P.O. and P.S. CHAYGAON
DIST.KAMRUP
ASSAM.

3:DADHIRAM BORO
S/O KULARAM DORO
VILL. NO. MULONGSELEK
P.O. JONAI
DIST. DHEMAJI
ASSAM.

4:PUNIRAM CHANGMAI
S/O PUHRI CHANGMAI
VILL.RONGPURIA
P.O. SIMEN CHAPORI
DIST. DHEMAJI
ASSAM.

5:PURNANDA DUTTA
S/O DHARMA DUTTA
VILL. PANIGAON
P.O. GOVINDAPUR
DIST. DHEMAJI
ASSAM.

6:DILIP CHANDRA BORDOLOI
S/O LATE NIKON BORDOLOI
VILL. GORMARI
P.O. SARUBARI
DIST. MORIGAON
ASSAM.

7:LARU BORKAKOTI
S/O LATE SHIVARAM BORKAKOTI
VILL. UJARAON
P.O. UPOR UJARGAON
DIST. NAGAON
ASSAM.

8:CHANDRA BORA
S/O LAE KON BORA
VILL. POHUCHUA
P.O. DERGAON
DIST. GOLAGHAT
ASSAM.

9:THE STATE OF ASSAM

REPRESENTED BY THE PRINCIPAL SECY. TO THE GOT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPTT.
ASSAM
DISPUR

GUWAHATI-6

10:THE DIRECTOR
SERICULTURE
ASSAM
GUWAHATI-22

Linked Case : WA/57/2026

THE STATE OF ASSAM AND ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSAM
IRRIGATION DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6

2: SECRETARY OF GOVT. OF ASSAM
IRRIGATION DEPTT.
ASSAM SECRETARIAT
DISPUR
GUWAHATI 781006

3: CHIEF ENGINEER
DEPTT. OF IRRIGATION
CHANDMARI
GUWAHATI 781003
ASSAM.

VERSUS

SRI SUJIT KUMAR SINGHA AND 6 ORS.
S/O SRI kRISHNA KUMAR SINGHA
R/O VIVEKANANDA ROAD
P.O TARAPUR
PS SILCHAR-3
DISTRICT CACHAR
ASSAM

2:MD. NIZAM UDDIN LASKAR
S/O LATE BASARAT ALI LASKAR
R/O VILL. AND P.O. GANIR GARAM
P.S. KARIGORAHA
DIST. CACHAR
ASSAM.

3:MD. ABUL HUSSAIN LASKAR
S/O LATE M. ALI LASKAR
R/O VILL. AND P.O. DHANEHARI
P.S. SONAI
DIST. CACHAR
ASSAM.

4:MD. ABDUL KHALIQUE MAZUMDER
S/O LATE MAHAMMAD UDDIN MAZUMDER
R/O VILL. AND P.O. BADRIPAR
P.S. SILCHAR
DIST. CACHAR
ASSAM.

5:KANTA PRASAD ROY
R/O VILL. AND P.O. KAJIDAHAR
PART-III
P.S. SONAL
DIST. CACHAR
ASSAM.

6:MD. SAHAJAN MAZUMDER
S/O MD. M ALI MAZUMDER
R/O VILL. AND P.O. SONABARIGHAT-I
DIST. CACHAR
ASSAM.

7:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI 06

Linked Case : WA/142/2026

SRI BABUL BISWAS
SON OF DINAMONI BISWAS
RESIDENT OF KALINAGAR-3
POLICE STATION- KALINAGAR
BAKORI HAWAR PT I
DISTRICT -HAILAKANDI
ASSAM
PIN CODE-788801.

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PUBLIC HEALTH ENGINEERING PHE
ASSAM
DISPUR
GUWAHATI-06.

2:THE UNDER SECRETARY TO THE GOVT OF ASSAM
PUBLIC HEALTH ENGINEERING
ASSAM
DISPUR
GUWAHATI-06.

3:THE CHIEF ENGINEER
PHE WATER ASSAM
HENGRABARI
GUWAHTI-36.

4:THE DIMA HASAO AUTONOMOUS COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
HAFLONG
DISTRICTDIMA HASAO
ERSTWHILE N.C HILLS AUTONOMOUS COUNCIL
PIN-788819.

5:THE ADDITIONAL CHIEF ENGINEER (PHE)
N.C. HILLS AUTONOMOUS COUNCIL
HAFLONG
DISTRICT- DIMA HASAO
PIN788819.

6:THE EXECUTIVE ENGINEER
PHE
MAIBANG DIVISION
MAIBANG
DISTRICT- DIMA HASAO
ASSAM
PIN-788819.

7:THE ASSISTANT EXECUTIVE ENGINEER
PHE
MAIBANG DIVISION
DISTRICT- DIMA HASAO
ASSAM
PIN-788819.

8:THE ACCOUNTANT GENERAL (A AND E)

ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29.

9:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-06.

10:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-06.

Linked Case : WA/294/2024

SAMIRAN CH DAS
S/O- LATE SUBDH CH. DAS
VILLAGE- LALAPUR PART-I
P.O.- CHANDRAPUR
P.S.- LALA
DISTRICT- HAILAKANDI
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
P.H.E. DEPARTMENT
DISPUR
GUWAHATI- 781006.

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

3:THE CHIEF ENGINEER
P.H.E. DEPARTMENT
HENGRABARI

ASSAM.

4:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI- 781029.

5:THE EXECUTIVE ENGINEER
HAILAKANDI DIVISION
ASSAM.

6:TREASURY OFFICER
HAILAKANDI
ASSAM.

<u>**Linked Case : WA/163/2026**</u>

LAKHISWARI BRAHMA
W/O-LATE TARANI BRAHMA
A RESIDENT OF VILL. PAVUAJHORA (SAMOGURI)
P.O. - BISMURI
P.S. - KOKRAJHAR
DIST - KOKRAJHAR
BTR
ASSAM
PIN -783370

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
PWD ROADS
DISPUR
GUWAHATI-06.

2:THE CHIEF ENGINEER
PWD ROADS
ASSAM
CHANDMARI
GUWAHATI
ASSAM -781003.

3:HE EXECUTIVE ENGINEER
PWD

KOKRAJHAR ROADS DIVISION.

4:THE ASSTT. EXECUTIVE ENGINEER
PWD
KOKRAJHAR RURAL ROADS DIVISION.

5:THE TREASURY OFFICER
KOKRAJHAR
ASSAM 783370.

6:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029.

- B E F O R E-

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the appellants	: Mr. K. Das, Adv. in WA No. 17/2026 Mr. P. Nayak, Addl. AG in WA No.57/2026 & WA No.392/2015 Mr. B. Dutta, Adv. in WA No. 142/2026 Mr. S. Das, Adv. in WA No. 156/2025 Mr. M. U.Mamud, Adv in WA No.163/2026 Mr. A.M. Barbhuiya, Adv in WA No.294/2024
For the Respondents	: Mr. S. Borthakur. Sr. Adv. Mr. P. Nayak, Addl. AG, Ms. B. Bhuyan, Sr. Adv Assisted by Ms. R Das, Adv./SC, BTC

Mr.R.K. Talukdar, SC, AG (A & E)
Ms. P. Chakraborty, SC, Dima Hasao
Mr. A. Banerjee, SC, Handloom & Textile

Date on which judgment was reserved : 21.07.2026

Date of pronouncement of judgment : 29.07.2026

Whether the pronouncement is of the Operative part of the judgment? : N/A

Has the judgment been pronounced? : Yes

JUDGMENT & ORDER (CAV)

(Arun Dev Choudhury, J)

1. These intra-court appeals being WA Nos. 156/2025, WA 17/2026, WA 57/2026, WA 142/2026, WA 294/2024, WA 392/2015 & WA 163/2026 raise a narrow yet recurring question concerning the legal consequences flowing from long and uninterrupted service rendered by employees initially engaged as Work-Charged employees and their exclusion from the State's policy of regularisation and consequential benefits, while granting the benefit to similarly situated employees.

2. **Brief facts relating to Writ Appeal No. 156/2025**

a) The present appeal has been filed by the appellant, who is the widow of Late Sutku Barman. Her husband initially joined government service as a Muster Roll Worker in the Public Works Department (PWD), Kokrajhar Rural Road Division, on 17.09.1981.

b) Later, he was upgraded to the position of Work-Charged Chowkidar on 08.08.1996 in a vacant, sanctioned post in the scale of pay 900-15-1005-20-1105-E.B 20-1225-30-1435/p.m.

c) Since then, he has been paid a regular salary in accordance with the applicable ROP Rules and has been extended all the benefits of a Grade IV regular employee, including General Provident Fund (GPF).

d) His service was duly recorded, and a service roll was maintained throughout his tenure.

e) In the year 2005, the State Government introduced a scheme, as per an Office Memorandum dated 30.09.2005, to regularise the services of Muster Roll and Work-Charged employees who had joined before 01.04.1993.

f) More than 30,000 such employees were regularised under this policy. However, due to what appears to be an administrative mistake or oversight by respondent No. 4, the departmental authority, the name of Late Sutku Barman was inadvertently omitted from the regularisation list, despite meeting all the eligibility criteria; he was thus left out.

g) Recognising the error, respondent No. 4 later admitted the mistake and even communicated with the Government, requesting the posthumous regularisation of Sutku Barman's service so that the appellant could be granted a family pension following his death.

h) The appellant, having lost her husband after he had rendered nearly 30 years of continuous service, made multiple requests to the department to avail pensionary benefits. When no action was taken, she filed WP(C) No. 1177/2017 before this Court.

i) The learned Single Judge dismissed the writ petition, by judgment and order dated 22.08.2024, principally relying on the decisions of a Co-ordinate Bench in ***The State of Assam Vs. Upen Das & Ors.,*** reported in ***2017 0 Supreme (Gau)***, and ***Ujala Narzari Vs. State of Assam (WA 1/2022)*** and also the decision of the Apex Court in ***State of Nagaland Vs. Nisevi Asumi, (2022) SCC Online SC 818***.

j) Being aggrieved, the present intra-court appeal was preferred.

3. **Brief facts relating to WA No. 163/2026**

I. The writ appeal arises out of the judgment and order dated 06.04.2026, passed by a learned Single Judge in WP(C) No.2353/2024, whereby the appellant's claim for regularisation of service and grant of retiral benefit was dismissed.

II. The appellant Smt. Lakhiswari Brahma was appointed on compassionate grounds on 23.11.1992 under the PWD, Assam, following the death of her husband. Her service was subsequently upgraded to a work-charged Chowkidar in the regular pay scale on 24.01.1996, and she continued uninterruptedly for more than 32 years until her superannuation on 30.11.2023.

III. Despite a recommendation for regularisation along with other similarly situated employees, the appellant's service was never regularised. However, she continued in service and was even granted revised pay scales from time to time.

IV. Being aggrieved by the denial of regularisation, the appellant approached the Court by filing a writ petition, being WP(C) No. 2353/2024.

V. The writ petition was rejected on the ground that work-charged employees are not entitled to regularisation and pensionary benefits, principally relying on the decisions of the Hon'ble Supreme Court in ***Secretary, State of Karnataka Vs. Uma Devi*** reported in ***2006, 4 SCC 1,*** as well as the decision rendered in **Upen Das** (supra).

VI. Being aggrieved, the appellant has preferred the present appeal.

4. **<u>Brief facts relating to the Writ Appeal No.142/2026</u>**

A. The present appeal has been filed by the appellant Babul Biswas, who initially joined government service as a work-charged Khalasi on 01.02.1987 in the office of the Executive Engineer (PHE), Maibang Division, vide office order No. 136 of 1986-87.

B. Later, he was upgraded to the same position of ork-Charged Khalasi, on a purely temporary basis, subject to extension of service after three months, based on the performance report of the concerned Assistant Executive Engineer, with immediate effect.

C. Services were extended from time to time, and since then he has been paid a regular salary in accordance with the applicable ROP Rules. He has been granted all the benefits of a Grade IV regular employee, including the General Provident Fund (GPF).

D. His service was duly recorded, and a service roll was maintained throughout his tenure.

E. In the year 2005, the State Government introduced a scheme under an Office Memorandum dated 30.09.2005 to regularise the services of Muster Roll and Work-Charged employees who had joined before 01.04.1993. More than 8,000 such employees were regularised under this policy. However, due to what appears to be an administrative mistake or oversight by the Executive Engineer (PHE) or departmental authority, the name of Babul Biswas was inadvertently omitted from the regularisation list, despite meeting all the eligibility criteria; he was thus left out.

F. Recognising the error, the Executive Engineer (PHE) later admitted the mistake and even communicated with the Government, requesting regularisation of Babul Biswas's service so that the appellant could be granted family pension. The appellant had rendered nearly 35 years and 2 months of continuous service and had made multiple requests to the department for pensionary benefits, but to no avail. When no action was taken, he was compelled to file the WP(C) No. 229/2023 before this Court.

G. The learned Single Judge dismissed the writ petition by judgment and order dated 24.06.2024, principally relying on the decisions of the Hon'ble Supreme Court in ***Uday Pratap Thakur & Anr. Vs. State of Bihar.,*** reported in ***2023 SCC OnLine SC 527*** and ***Sunita Barman Vs. Commissioner, M.P. Housing and Infrastructure Development Board & Ors*** *reported in* ***(2023) 1 SCC 570.***

H. Being aggrieved, the appellant has preferred the present appeal.

5. **Brief facts relating to the Writ Appeal No.294/2024**

I. The present appeal has been filed by the appellant Samiran Ch. Das, who initially joined government service as a work-charged Khalasi on 10.09.1984 in the office of the Executive Engineer (PHE), Hailakandi Division, with a scale of pay of Rs.370/--5-420-7-490 per month.

II. Later, by another order dated 31.10.1987 issued by the then Public Health Engineering, Hailakandi Division, he was promoted to the position of Pump-Operator Work-Charge at R.W Hailakandi Town Water Supply Scheme under the Executive Engineer, Hailakandi P.H.E. Division in the scale of pay of Rs.410-10-470-EB-13-670 per month.

III. Services were extended from time to time, and since then he has been paid a regular salary in accordance with the applicable ROP Rules. He has been granted all the benefits of a Grade IV regular employee, including the General Provident Fund (GPF).

IV. His service was duly recorded, and a service roll was maintained throughout his tenure.

V. In the year 2005, the State Government introduced a scheme under an Office Memorandum dated 30.09.2005 to regularise the services of Muster Roll and Work-Charged employees who had joined before 01.04.1993. More than 8,000 such employees were regularised under this policy. However, due to what appears to be an administrative mistake or oversight by the Executive Engineer (PHE) or departmental authority, the name of Samiran Ch. Das was inadvertently omitted from the regularisation list, despite meeting all the eligibility criteria; he was thus left out.

VI. Recognising the error, the Executive Engineer (PHE) later admitted the mistake and even communicated with the Government, requesting regularisation of Samiran Ch. Das's service so that the appellant could be granted family pension. The appellant had rendered nearly 36 years and 8 months of continuous service and had made multiple requests to the department for pensionary benefits, but to no avail. When no action was taken, he was compelled to file the WP(C) No. 3733/2024 before this Court.

VII. The learned Single Judge dismissed the writ petition by judgment and order dated 31.07.2024, principally relying on the decisions of the Hon'ble Supreme Court in ***Upen Das*** (supra).

VIII. Being aggrieved, the appellant has preferred the present appeal.

6. **Brief facts relating to the Writ Appeal No.57/2026**

a. The State prefers this appeal.

b. The case of the respondents Nos. 1 to 6 is that they joined as Muster Roll workers prior to 01.04.1993. While they were working as Muster Roll employees in the Irrigation Department, Silchar Sub-Division (I), Cachar, their services were regularised w.e.f. 22.07.2005 by the Executive Engineer, in terms of a Cabinet decision dated 22.07.2005; however, their names were not included in the list approved by the Finance Department, even though the Executive Engineer regularised the services of the writ petitioners. Subsequently, their regularisations were cancelled by the Finance Department vide its letter dated 17.04.2008 for want of the Finance Department's approval.

c. Subsequently, the Irrigation Department vide office order No.IGN(E)88/2008/83, dated 07.12.2009, abolished the six personal posts against which the Executive Engineer, Silchar Division (I), Silchar, had regularised the writ petitioners, and a disciplinary proceeding against the Executive Engineer and other officers and staff involved has been initiated by the Irrigation Department.

d. The learned Single Judge, vide order dated 25.06.2024, allowed the writ petition directing the respondent authorities to consider the case of the petitioners as the petitioners were entitled to be regularised in terms of the policy of the State at that relevant time, considering that services of some of the petitioners were irregularly regularized/dropped from the list of regularization at the relevant time within a period of three months.

e. The State, being aggrieved by the impugned judgment and order dated 25.06.2024, passed by the learned Single Judge in WP(C) No.4431/2008, has preferred the present writ appeal.

7. **Brief facts relating to the Writ Appeal No.392/2015**

I. The State prefers this appeal.

II. The case of the respondents Nos. 1 to 8 is that they joined as muster roll workers prior to 01.04.1993. While they were working as Muster Roll employees in the Directorate of Handloom Textile and Sericulture Department, their services were regularised w.e.f. 22.07.2005 by the Executive Engineer, in terms of a Cabinet decision dated 22.07.2005; however, their names were not included in the list approved by the Finance Department, even though the Handloom Textile and Sericulture Department regularised the services of 1127 Muster Roll Workers of Handloom Textile & Sericulture Department.

III. Being aggrieved, the writ petitioners preferred writ petition being WP(C) No.2121/2001 which was disposed of vide order dated 07.08.2006; however, in spite of disposal of the writ petition, the petitioners were still left aggrieved resulting in filing of a contempt petition being Cont.Cas(C) No.140/2007.

IV. However, during pendency of the contempt petition, the Commissioner & Secretary, Finance Department filed a review petition being Review Pet No.45/2007, for reviewing the judgment and order dated 7.8.2006 passed in WP(C) 2121/2006, stating that the petitioners were not entitled in terms of the decision rendered in ***Uma Devi*** (supra) however, the aforesaid Review Petition was dismissed vide order dated 01.03.2013, on the ground that Uma Devi (supra) case is not applicable in the present cases the Govt. has decided to regularize the services of Muster Roll workers and merely because there was inaction of the authority the petitioners should not suffer and accordingly the Cont petition was disposed of with a direction to the respondents to carry out the order dated 07.08.2006 passed in WP(C) No.2121/2006.

V. The State, being aggrieved by the order of the review petition, passed by the learned Single Judge, has preferred the present writ appeal.

8. The learned counsels for the appellants, referring to the provision of Rule 31 of the Rules, 1969, more particularly, the proviso thereto, contend that in circumstances like the present one, a declaration is required to be made that the husband of the appellant shall be entitled to pension and for the purpose, the authorities may be directed to make such a declaration. It is further contended that similar prayers were granted by a learned Single Judge in ***Kabiram Rajbangshi Vs. the State of Assam & Ors.,*** reported in ***1997 1 GLT 589.***

9. Referring to the judgment of the Hon'ble Apex Court in ***Prem Singh Vs. State of Uttar Pradesh*** reported in ***(2019) 10 SCC 516*, *Jaswant Singh & Ors. Vs. Union of India and Ors., reported in [(1979) 4 SCC 440]; Rajkaran Singh and Ors. Vs*. Union of India & Ors., reported in *2024 INSC 621,* and *Vinod Kumar & Ors. Vs. In Union of India, reported in 2024 INSC 332,*** the learned counsels contend that the long service of the appellant's husband, with all the benefits of a regular employee, suggests a level of performance and integration into the governmental structure that belies the classification as a work-charge employee. Such performance and duties are similar to those of regular employees; the distinction between a work charged employee and a regular employee is, therefore, in the present case, more formal than substantive. The learned counsels further contend that, when, by the very nature of employment, work charged employees should not continue for long and, therefore, the continuation of service till superannuation with all the benefits of a regular employee, there cannot be any differentiation.

10. The further case of the appellants is that their claim is covered by the determination made by the Supreme Court in ***Sukhendu Bhattacharjee Vs. State of Assam***, reported in ***2026 INSC 523*.**

11. Per contra, Mr. Nayak, learned Additional Advocate General representing the State in the Public Works Department,

argues that in view of the determination made in the ***Uma Devi*** (supra)***, Jitendra Nath Kalita Vs. State of Assam*** reported in ***2006 (2) GLT 654, Upen Das (supra)*** and ***Ujala Narzary (supra),*** *Courts are barred from granting regularisation or consequential service benefits to muster roll or work-charged* employees. He further argues that a pension, being an incidence of substantive appointment, cannot be directed in exercise of the power of judicial review under Article 226 of the Constitution of India, more particularly when the grant of pension is regulated under a statutory policy which does not permit the grant of pension to a work-charged employee, irrespective of length of service.

12. Referring to the decision of the Hon'ble Apex Court in ***Official Liquidator Vs. Dayanand and Others*** reported in ***(2008) 10 SCC 1,*** the learned Additional Advocate General argues that the Hon'ble Apex Court, in no unambiguous manner, laid down the proposition that **Uma Devi** (supra) is binding on all the Courts, including the Apex Court, until a larger Bench overrules the same. According to him, the Courts cannot direct the regularisation of service; therefore, the Court has no power to direct the grant of benefits payable to regular employees to such work-charged employees. In support, he places reliance on ***The State of Manipur Vs. Ksh. Moirangninthou Singh & Ors.,*** reported in ***2007 2 Supreme Court Cases 261*****.**

13. He further relies on ***Uday Pratap Thakur*** *(supra),* and argues that the decision in ***Prem Singh*** (supra) was limited to that case.

14. The learned Additional Advocate General also places reliance on the judgment of the Hon'ble Apex Court in ***State of Odisha and Others Vs. Sudhansu Sekhar Jena*** reported in ***2025 SCC Online SC 385,*** contending that the Court cannot tweak the statutory mandate to grant pensionary benefits to work-charged employees.

15. Mr. Nayak argues that the determination made in ***Sukhendu*** (supra) is applicable only to Muster Roll employees, to the exclusion of Work Charged employees, as held at paragraph Nos. 82 to 93 of ***Sukhendu*** *(supra)**.***

16. We have given our thoughtful consideration to the arguments advanced by the learned counsel for the parties, and have perused the materials available on record, and the authorities pressed into service.

17. For brevity, the appellants in WA Nos. 156/2025, 17/2026, 142/2026 & 163/2026 and respondents No. 1 to 6 in WA No. 57/2026 are referred to as the Employees.

18. The undisputed record reveals that the employees in the present cases were appointed before 1.4.1993 and continued to serve, as recorded earlier in this judgment. The record further reveals that the appointments were with a definite scale of pay and throughout their career, they have

been granted annual increment like other regular employees; GPF accounts were opened and also maintained; as and when there was revision of Pay Rules, they were granted the benefit of the same with grade pay and pay band which are recorded and reflected in their Service Book/Service Roll; due leaves were granted to them like other regular State employees; the scale of pay shows crossing of efficiency bar etc.

19. It is also not disputed before this Court that the employees belonging to the category of employees engaged before the cut-off date of 01.04.1993, adopted by the State itself, were otherwise similarly situated to those employees whose services were regularised pursuant to the Cabinet decision dated 22-07-2005. Their exclusion from the regulatory exercise did not arise from any disqualification attributable to them, but rather from omissions and an administrative lapse on the part of the authorities.

20. Before proceeding further, let us briefly record the policy history of the State of Assam regarding the regularisation of work-charged and muster roll workers, as well as the litigation history relating thereto.

21. It is not in dispute that, to meet the increasing workforce requirements for construction, maintenance of public infrastructure, and execution of developmental works across various departments, the government of Assam has, since the early 1980s, engaged a large number of Muster Roll and

Work-Charged workers.

22. Recognising the prolonged and continuous nature of such engagement, the State Cabinet, by its decision dated 23 September 1983, resolved to regularise Muster Roll workers who had completed 15 years of continuous service and work-charged employees who had completed 5 years of service.

Although such a policy decision was communicated to the concerned departments, no comprehensive scheme or guidelines were framed for its implementation, resulting in uncertainty regarding its execution.

23. In an attempt to operationalise the earlier policy, the Government issued an Office Memorandum dated 28 April 1995, directing all departments to undertake regularisation of Work-Charged and Muster-Roll workers engaged before 1st April 1993, after consultation with the Finance Department.

The said office memorandum was followed by further communications issued in October 1995, clarifying that no fresh engagement would be made after the cut-off date and that the benefit would be confined to those who continued in service as of 28 April 1995.

Thereafter, successive circulars were issued in 1998 and 2000 reiterating the Government's policy and repeatedly instructing the authorities to accord priority to the regularisation of eligible workers by taking into account their seniority and length of continuous service.

24. During the same period, conflicting judicial pronouncements emerged regarding the regularisation of such employees, leading to a reference of the issue to a full Bench of this High Court in ***Jitendra Nath Kalita*** (supra).

25. During the pendency of the said Reference, the State Cabinet, by a decision dated 22 July 2005, once again resolved to regularise the services of Work-Charged and m

26. Muster-Roll workers who had been engaged before 1 April 1993 and had continued in uninterrupted service, irrespective of the length of service.

27. Consequent thereto, the Finance Department sanctioned the creation of 5,892 work-Charged posts and 25,069 Grade IV posts for implementation of the Cabinet decision, resulting in the regularisation of nearly 30,000 employees.

28. Subsequently, the full Bench in ***Jitendra Nath Kalita*** (supra) held that the office memorandum dated 28 April 1995 did not constitute a valid policy for regularisation and declared that no further regularisation could be effected under the said office memorandum, while leaving undisturbed the regularisation already made.

The full Bench neither examined nor pronounced upon the validity of the subsequent Cabinet decision dated 22 July 2005.

Significantly, the Full-Bench took cognizance of the decision dated 22nd July 2005 and opined that such a cabinet decision itself fortified the view of the Bench that the impugned notification dated 20.04.1995 lacked the support of any valid policy decision.

29. Although the Cabinet decision dated 22 July 2005 was implemented in respect of nearly 30,000 eligible employees, several work-charged and Muster Roll workers, despite being similarly situated and meeting the eligibility criteria, were excluded from the exercise due to clerical errors, omissions of names, and other administrative lapses.

30. Aggrieved thereby, numerous writ petitions were instituted before the High Court seeking extension of the same benefit on the ground that they had also been engaged before 1 April 1993 and had rendered long and uninterrupted service.

31. During the pendency of such proceedings, including ***Ramani Deka Vs. State of Assam [WP(C) 1271/2006]***, the State Government itself acknowledged before the High Court that a considerable number of eligible workers had been left out of the earlier regularisation exercise and repeatedly assured the Court that an appropriate policy would be framed for their regularisation. An affidavit filed by the Chief Secretary indicated that draft policies had already been prepared to regularise such left-out workers by creating personal posts for them. Similar assurances were also furnished in other pending proceedings.

32. However, notwithstanding the aforesaid undertakings, the State thereafter sought leave of the High Court to implement the proposed policy on the ground that the decision of the Constitution Bench in ***Uma Devi*** (supra) created a legal impediment.

33. Upon such permission being declined by the High Court, the State issued an office memorandum dated 16-6-2012, deciding that no further regularisation of work-charged, Muster-Roll or similarly situated employees would be undertaken, even if they had been engaged before 01-04-1993 and had rendered continuous service.

34. The validity of the said office memorandum dated 16-6-2012 was challenged by the affected workers before the learned Single Judge, who, by judgment dated 20-12-2013, quashed the Office Memorandum and directed regularisation of eligible employees engaged before 01-04-1993 together with consequential service benefits.

35. The learned Single Judge inter alia held that work-charged and Muster Roll engagements were recognized modes of employment under the applicable service framework; that the Cabinet decision dated 22-7-2005 had remained valid and had already been implemented in respect of nearly 30,000 similarly situated employees; that the petitioners had been excluded only because of administrative lapses; and that the State was bound by its repeated undertakings given before the High Court.

The learned Single Judge, while allowing the writ petition, placed reliance on the exception carved out in para No. 53 of ***Uma Devi*** (supra), and the subsequent explanation rendered in ***State of Karnataka Vs. M.L. Kesari*** reported in ***2010 09 SCC 247***.

36. Aggrieved thereby, the State preferred an intra-court appeal before the Division Bench in **Upen Das** (supra).

37. By the judgment dated 8-6-2017 passed in ***Upen Das*** (supra), the Division Bench reversed the decision of the learned single judge, principally holding that the petitioners had not been appointed against sanctioned posts; that they did not satisfy the exceptions carved out in paragraph 53 of ***Uma Devi*** (supra); and that after the pronouncement in ***Uma Devi*** (supra), the State could not continue or extend regularization by creation of posts notwithstanding the earlier Cabinet decision dated 22-7-2005.

38. Such decisions were challenged before the Hon'ble Apex Court by two sets of petitioners, namely: (1) ***Sukhendu Bhatacharjee and Ors Vs. State of Assam*** in ***Civil Appeal No.4514/2025*** and (2) ***All Assam Work Charged Employees Association*** in **Civil Appeal No.4519/2025**, with a limited grievance that in ***Upen Das*** (supra) the High Court proceeded to treat work charged employees at par with Muster Roll and Casual workers and thereby foreclosing their entitlement to pension and other consequential benefits, without the Association being made

a party.

39. At this stage, it becomes necessary to notice the common judgment of the Hon'ble Supreme Court in ***Sukhendu Bhattacharjee*** (supra) was rendered in the context of the same State policy framework covering Muster Roll and Work Charged employees in Assam.

40. In ***Sukhendu Bhattacharjee*** (supra), the Supreme Court comprehensively examined the 1983 Cabinet Decision; the Office Memorandum issued from time to time; the Cabinet Decision dated 22.07.2005; the regularisation of approximately 30,000 similarly situated employees; and the correctness of ***Upen Das*** (supra).

41. Significantly, each of these executive decisions pertained jointly to both Work-Charged and Muster Roll employees.

The Finance Department's concurrence, reproduced by the Supreme Court in its Judgment in ***Sukhendu Bhattacharjee*** (supra), separately sanctioned the creation of grade-IV posts for Work-Charged and Muster Roll workers, as well as supernumerary posts for retired and deceased employees of both categories.

42. The foundational factual matrix before the Supreme Court, therefore, expressly included work-charged employees on account of the State's common Policy of regularisation of Muster Roll and Work-Charged employees, and the exclusion of benefits to some eligible persons of these two classes of

workers.

43. After recording the factual backgrounds, the Supreme Court, then, identified the true controversy by recording two undisputed foundational facts, namely, that the employees had been engaged before 1 April 1993 and had rendered uninterrupted service for decades, and that they were identically situated with nearly 30,000 Work-charged and Muster Roll employees whose services had already been regularised pursuant to the Cabinet decision dated 22nd of July 2005.

44. The Court further noted that the exclusion of the appellants from the benefit of regularisation was not attributable to any ineligibility on their part, but solely to administrative lapses, clerical mistakes and inadvertent omissions committed by the State.

45. Proceeding on this factual premise, the Court reframed the controversy by holding that the case did not concern the general permissibility of regularisation of employees appointed against non-sanctioned posts, but rather the constitutional validity of denying equal treatment to a small class of employees who admittedly belonged to the very class of Muster Roll and work-charged that had already been extended the benefit of an existing and substantially implemented Government policy.

46. The Court thereafter undertook an elaborate analysis of

paragraph 53 of ***Uma Devi*** (supra) and its subsequent exposition in ***M. L. Kesari*** (supra).

It held that the Division Bench in ***Upen Das*** (supra) had fundamentally erred in treating the left-out employees' claim as one arising under the limited one-time regularisation exception carved out in ***Uma Devi*** (supra).

According to the Supreme Court, the employees were not invoking the exceptional jurisdiction recognised in paragraph 53 of ***Uma Devi*** (supra); rather, they sought enforcement of a Cabinet policy framed before the pronouncement in ***Uma Devi*** (supra), which the State had already acted upon in favour of approximately 30,000 similarly situated employees.

Consequently, it was held that the source of their entitlement was not the one-time exercise contemplated in ***Uma Devi*** (supra), but the constitutional guarantee of equality under Article 14, which required the State to extend the identical treatment to all members of the same class.

Building upon this distinction, the Court laid down that ***once the State voluntarily formulates a policy identifying a particular class of employees for enforcement of a benefit and subsequently implements that policy, every person falling within that class acquires a constitutional right to equal treatment under Article 14.***

The State cannot selectively implement such a policy by extending its benefit to one section of eligible employees while excluding another section solely because of administrative inefficiency or clerical mistakes, it was concluded.

47. According to the Supreme Court, it also does not permit partial implementation of an executive policy or hostile discrimination among persons who are admittedly in identical circumstances.

It was in this context that the Court relied on ***Pawan Kumar Vs. Union of India*** reported in ***2026 INSC 156*** to reiterate that employees left out due to oversight or administrative error cannot be denied the same benefit already granted to others in a similar position.

Thus, the Court treated the claim of those work-charged and Muster Roll employees as one seeking completion of an incomplete governmental exercise rather than initiation of a fresh scheme of regulation.

48. After holding so, the Supreme Court nevertheless examined the State's conduct from a broader public law perspective.

It observed that after implementing the Cabinet Decision in favour of nearly 30,000 employees, the State repeatedly assured the Court, through affidavits signed by the Chief Secretary and other senior officers, that the cases of the remaining eligible workers were under active consideration and that an appropriate policy for their regularisation would be framed shortly. Acting upon these unequivocal representations, the High Court issued consequential directions. However, after obtaining such indulgence, the State completely altered its stand by issuing the office memorandum dated 16 June 2012, relying upon **Uma Devi** (supra) as a legal impediment.

49. The Supreme Court held that such conduct offended the fundamental principles of administrative fairness, consistency and good governance.

Having consciously formulated a policy, substantially implemented it, and repeatedly represented before a constitutional Court that the remaining workers would also be considered, the State could not subsequently defeat its own policy through a contrary executive instruction. Such conduct, according to the Supreme Court, was incompatible with constitutional governance.

50. The Court further emphasised that the State's constitutional obligation is qualitatively different from that of an ordinary employer. Relying on ***Bhola Nath Vs. State of Jharkhand*** reported in ***2026 INSC 99***, it reiterated that the State, as a model employer, must act with fairness, consistency, and candour, particularly when dealing with employees occupying the lowest strata of public service.

It held that repeated undertakings given before constitutional Courts cannot subsequently be ignored, and the State cannot be permitted to approbate and reprobate by first securing judicial indulgence through solemn assurances and thereafter resiling from them on grounds that were always available to it.

51. The Supreme Court then invoked the doctrine of legitimate expectation as an additional Constitutional facet of Article 14.

It held that the Cabinet decision, its substantial implementation, coupled with repeated assurances given before the High Court, legitimately induced the excluded Muster Roll and Work charged employees to believe that their cases would also be considered in the same exercise.

It was held that, though legitimate expectation may not create an enforceable vested right, arbitrary departure from such consistent governmental representations would nevertheless render executive action vulnerable to judicial review under Article 14.

Relying upon ***National Buildings Construction Corporation Vs. S. Raghunathan & Ors***, reported in ***AIR 1998 SUPREME COURT 2779,*** the Court concluded that the State could not selectively abandon its earlier representations after having acted upon them in favour of thousands of similarly situated employees.

52. The Court also clarified an important constitutional principle relating to the separation of powers by holding that the

executive was never required to obtain prior permission from the High Court to implement its own Cabinet decision.

The formulation and implementation of a policy of regularisation falls squarely within the executive domain. At the same time, the role of the Constitutional Court is confined to judicial review of such executive action; it was held.

Consequently, the Court opined that the State had committed a constitutional error in virtually surrendering its executive authority by seeking leave of the High Court to implement its own policy after having already resolved to do so.

Finally, the Court rejected the State's contention, describing it as a rigid and mechanical interpretation of **Uma Devi** (supra).

53. Drawing support from the recent decisions in ***Jaggo v. Union of India*** reported in ***2024 SCC OnLine SC 3826, Sripal vs. Nagarnigam*** reported in ***2025 INSC 144***, ***Dharam Singh v. State of Uttar Pradesh*** reported in ***2025 INSC 998,*** and ***Bhola Nath*** (supra), the Supreme Court observed that Uma Devi was intended to prevent unconstitutional backdoor appointments and not to legitimise the prolonged exploitation of temporary employees who had continuously performed perennial governmental functions.

It reiterated that **Uma Devi** (supra) cannot serve as a blanket defence to defeat claims founded on equality, fairness, and non-arbitrariness, particularly where the State itself had consciously regularised an overwhelming majority of similarly situated employees pursuant to its own policy.

54. The Supreme Court finally declared that once the State itself evolves and substantially implements a policy framework for the regularisation of Muster Roll and work charged employees, exclusion of similarly situated employees without a rational basis would attract the vice of arbitrariness under Article 14 of the Constitution of India.

55. The Supreme Court further held that the State cannot approbate and reprobate simultaneously by continuously utilising employees for perennial governmental work over decades, while denying corresponding service consequences solely on the basis of technical classification.

56. Significantly, the Supreme Court clarified that **Uma Devi** (supra) cannot be mechanically construed as an absolute embargo on all forms of relief for long-serving Muster Roll/Work Charged employees who have remained institutionally integrated into governmental service.

57. Thus, the Court also recognised that when work charged/muster roll employees (i) rendered uninterrupted long service; (ii) performed a perennial governmental function; (iii) received regular scales of pay and service benefits; and (iv) became integrated into the regular

institutional framework, the State was obliged to work as a model employer consistent with constitutional fairness.

58. Ultimately, the Supreme Court set aside the judgment in **Upen Das** (supra) and restored the learned single judge's decision.

59. In the present cases, the factual position remains materially similar.

60. The employees were admittedly engaged before the cut-off date adopted by the State itself; they rendered uninterrupted long service under the Department; received regular scales of pay and other service benefits; maintained service books and GPF accounts; and continued till death/till superannuation while discharging perennial government functions. Their names were admittedly left out, not due to the employee's fault, a fact the employer subsequently sought to ratify.

61. Their exclusion from pensionary recognition, therefore, arises not from any distinguishable factual circumstance but from an administrative omission, despite long institutional integration into government service; thus, their cases are squarely covered by the determination in **Sukhendu Bhattacharjee** (supra).

62. Significantly, the employers themselves subsequently acknowledged that the concerned employees had been left out despite their eligibility and recommended their

regularisation; consequently, the State Government considered their cases a denial of parity, which was admittedly not due to an absence of eligibility.

63. Though the foregoing discussions make it abundantly clear that the principle laid down in **Sukhendu Bhattacharjee** (supra) covers both the left-out categories of Muster Roll and work-charged employees, at this stage it is necessary to address the foundational plank of Mr. Nayak's argument that the decision in **Sukhendu Bhattacharjee** (supra) is confined to Muster Roll employees only. It has no application to work-charged employees, but the determination in **All Assam Work-Charged Employees Association** is applicable.

64. Before examining Mr. Nayak's submission that **Sukhendu Bhattacharjee** (supra) has no application to work-charged employees, it is necessary to ascertain what constitutes a binding declaration of law under Article 141 of the Constitution of India.

65. It is well settled that not every observation contained in a judgment constitutes a precedent.

The binding element of a decision is its ratio decidendi, namely the principle of law necessary for deciding the controversy before the court.

Observations that are not necessary to determine the issue may have persuasive value as obiter, but they do not ordinarily constitute the ratio of the decision.

Equally well settled is the principle that the ratio of a judgment is not to be culled out from one isolated paragraph but from a reading of the judgment as a whole, having regard to the questions involved, the facts found and the reasoning that leads to the conclusion.

66. Applying the above principle, we are unable to accept the submission that **Sukhendu Bhattacharjee** (supra) is confined only to Muster Roll employees.

67. The principal controversy before the Supreme Court was whether employees who were engaged before 01.04.1993, who were otherwise covered by the Assam government regularisation policy but were omitted from the implementation of the Cabinet decision dated 22.07.2005, could be denied regularisation and consequential benefits, mainly because they had been left out on account of Administrative omissions.

68. In deciding that controversy, the Supreme Court examined the entire Assam policy framework, commencing from the 1983 Cabinet decision, the office memoranda issued from time to time, and the Cabinet decision dated 22.07.2005, the Finance Department concurrence creating posts for both Work Charged and Muster Roll employees, the undertaking given by the State before the High Court and the subsequent decision in **Upen Das** (supra).

69. Those considerations formed the essential reasoning leading to the conclusion that similarly situated employees who were left out could not be denied equal treatment under Article 14 of the Constitution of India.

70. These propositions constitute the ratio decidendi of the judgment.

71. The contention of Mr. Nayak that the judgment nevertheless excludes work-charged employees because the claim of the work-charged employees was dealt with in paragraphs 82 to 99, and because work-charged employees were distinguished from Muster roll workers, is, in our opinion, expressly answered by the Supreme Court itself as discussed hereinabove.

72. Paragraph Nos. 82 to 99 indeed arise out of a separate appeal preferred by the **All Assam Work Charged Employees Association**, *whose grievance was that the observations made in Upen Das, i.e., "**Muster Roll Workers, Work Charged Workers and Casual Workers are not entitled for regularisation of their services with consequential benefits"*** adversely affected Work Charged Employees. However, they were not parties before the High Court.

73. The Supreme Court clarified that Work Charged Employees constitute a distinct class; that the observations in **Upen Das** (supra) would not prejudice their independent claims;

and that they would be at liberty to pursue pensionary and other consequential benefits in accordance with law.

74. In our opinion, those observations neither overrule nor nullify the ratio already declared in Civil Appeal No.4514 of 2025 **(Sukhendu Bhattacharjee)** (supra).

On the contrary, it preserves the independent rights of Work Charged Employees while leaving the adjudication of individual claims to the appropriate forum.

Paragraphs 82 to 99 merely reinforce those conclusions by ensuring that the observations in **Upen Das** (supra) do not operate as a bar against Work Charged Employees asserting their independent claims.

75. The judgment itself was based throughout on the common Policy Framework governing both Muster Roll and work-charge employees. The historical narrative, commenting on the 1983 Cabinet Decision, the office memorandum issued from time to time, and culminating in the Cabinet Decision dated 22.07.2005, uniformly refers to both categories of employees without drawing any distinction between them.

76. A careful reading of the judgment reveals that the Supreme Court was dealing with a separate appeal preferred by the Work Charged Employees Association, whose grievance was qualitatively different from that of the left-out employees covered by the 2005 regularisation exercise.

Their concern before the Court was that the observations made in **Upen Das** (supra)**,** as quoted hereinabove, operated as a complete bar against all Work Charged Employees, including those who were not parties to the earlier litigation and whose claims might arise on other legal, statutory or constitutional foundations independent of the Assam policy framework.

It is in that context that the Supreme Court recognised Work Charged Employees as constituting a distinct class, clarified that the observations in **Upen Das** (supra) would not prejudice them and expressly left their independent claims open for adjudication in accordance with law.

77. It ensured that the earlier observations in **Upen Das** (supra) would not foreclose independent claims founded on other statutory, legal, or constitutional bases, or on other governing principles of law recognising long and uninterrupted service.

78. The true import of paragraphs 82 to 99, therefore, is not that every Work Charged Employee becomes entitled to a pension merely by reason of long service, nor that such entitlement is confined exclusively to those falling within the 2005 regularisation policy, but preserving the jurisdiction of the Courts to examine such claims on their own merits, uninfluenced by the observations contained in **Upen Das** (emphasis supplied).

79. Likewise, **Upen Das**(supra) proceeded on the footing that

no enforceable rights survived after **Uma Devi** (supra). In **Ujala Narzary** (supra) and **Upen Das** (supra), relief was declined primarily on the basis of **Uma Devi** (supra) and the absence of regularisation.

The correctness of that approach in the context of Assam Muster Roll and work charged employees has now been examined and settled by the Supreme Court in **Sukhendu Bhattacharjee** (supra).

The pronouncement in **Sukhendu Bhattacharjee** (supra) has authoritatively declared that employees appointed before 01.04.1993, who were otherwise covered by the Assam policy framework but omitted from the regularisation exercise due to administrative oversight, cannot be denied regularisation and consequential service benefits merely because similarly situated employees alone were granted such benefits.

Since the policy was uniformly applied to both work-charged and Muster-roll employees, the same constitutional principle necessarily extends to both categories.

The Hon'ble Supreme Court has now clarified that such left-out employees engaged before 01.04.1993 could not be denied regularisation and consequential service benefit solely on technical or administrative grounds, including initial engagement against a non-sanctioned post, where similarly situated employees had already been regularised under the same policy.

The present appeals are therefore required to be governed principally by the ratio laid down in **Sukhendu Bhattacharjee** (supra) inasmuch as their claim is not independent but arises out of the Policy Framework adopted by the State.

80. In our respectful opinion, properly understood, those observations are protective in nature; they neither create an automatic right nor extinguish one.

Consequently, the State cannot rely upon it to narrow the ratio already declared in favour of employees covered by the Assam policy framework, nor can it be construed as foreclosing the possibility of other Work Charged Employees claiming pensionary entitlement on distinct statutory or constitutional grounds in appropriate proceedings.

81. The principles laid down in **Sukhendu Bhatacharjee** (supra) constitute binding declarations under article 141 not because the judgment concerns pensionary claims but because it arose under the identical Assam policy framework governing both work charged and Muster Roll employees; the same cut-off date of 01.04.1993; the same Cabinet Decision dated 22.07.2005; the same category of left out employees excluded due to administrative omission; and substantially identical constitutional objections founded upon **Uma Devi** (supra). The ratio, therefore, directly governs the

present controversy.

82. Relying on the decision of **Uma Devi** (supra)**,** Mr. Nayak, learned Additional Advocate General, however, argues that the decision rendered by the Hon'ble Apex Court in **Sukhendu Bhattacharjee**(supra) is per-incuriam because it ignored **Uma Devi** (supra)**.** The learned counsel has relied upon a catena of decisions and argues that the appointments made dehors the constitutional scheme are illegal; that regularisation cannot ordinarily be directed by courts; and that creation of posts lies within the exclusive domain of the executive. According to Mr. Nayak, the Hon'ble Apex Court in **Sukhendu Bhattacharjee** (supra) ignored all these settled propositions of law and therefore does not carry any precedential value.

83. We are rather surprised that such an argument has been advanced by the learned Additional Advocate General. The submission betrays a fundamental misconception of the ratio decidendi in **Sukhendu Bhattacharjee** (supra). The judgment neither revisits the principle of **Uma Devi** (supra) or the other judgments relied on by the learned Additional Advocate General; it proceeds on an altogether different constitutional footing founded upon an existing state policy and Article 14.

84. The argument of Mr. Nayak assumes that the decision in Sukhendu Bhattacharjee is merely another judgment on the permissibility of regularisation governed by the Constitution

Bench decision in **Uma Devi** (supra). Proceeding on that premise, learned counsel has placed reliance on those decisions reiterating those well-settled principles. With respect, none of these propositions admit any controversy. However, they are wholly besides the point.

85. The ratio of **Sukhendu Bhattacharjee** (supra) does not rest upon a reconsideration, dilution, or departure from **Uma Devi** (supra). On the contrary, the Hon'ble Supreme Court undertook an elaborate analysis of paragraph 53 of **Uma Devi** (supra) and the decision in **M. L. Kesari** (supra), and thereafter expressly held that claims of the appellants therein did not arise under one-time regularisation exceptions carved out. The Court categorically observed that appellants were not invoking paragraph 53 of Uma Devi, but were claiming enforcement of a state-specific cabinet policy dated 22-07-2005, which had already been substantially implemented by regularising nearly 30,000 similarly situated employees.

86. The source of the appellant's entitlement was thus located not in the doctrine of regularisation, but in the constitutional guarantee of equal treatment under Article 14.

87. Once the controversy is appreciated in its correct perspective, the edifice of Mr. Nayak's submission collapses. Authorities explaining the limits of judicial power to direct regularisation or create posts address an entirely different legal questions.

88. The creation of posts had already been continuously undertaken by the state itself, pursuant to a Cabinet Decision dated 22-07-2005. Nearly 30,000 employees had already been regularised under that policy. The only question before the Supreme Court was whether a residual class of employees admittedly falling within the very same policy and omitted only because of administrative lapses and clerical mistakes could be denied identical treatment. That question was answered applying the constitutional principle of equality, non-arbitrariness, legitimate expectation, and fairness in state action.

89. A decision can be characterised as per-incuriam only where it is rendered in ignorance of a binding statutory provision or binding precedent having direct application to the issue decided. The judgment in Sukhandu Bhattacharjee does neither. Far from overlooking Uma Devi, the Supreme Court devoted a substantial part of the judgment to examine **Uma Devi** (supra)**, M. L. Keshari** (supra), and subsequent authorities such as **Pawan Kumar** (supra)**, Bhola Nath** (supra)**, National Building Construction Corporation** (supra)**, Jaggo** (supra)**, Sripal** (supra) and **Dharam Singh** (supra)**.** The correctness of the decision cannot, by stretch of any imagination, furnish a basis for treating the judgment as par inquirium by a division bench of a high court.

90. The submission that Sukhandu Bhattacharjee lacks precedential force is equally misconceived. The judgment

undoubtedly follows earlier authorities wherever applicable. However, it simultaneously lays down an independent principle that where the State has itself framed and subsequently implemented a policy conferring a benefit upon an identifiable class of employees, Article 14 prohibits selective implementation by excluding a small segment of the same class on account of administrative lapses. That principle constitutes the ratio decidendi of the judgment; This ratio binds courts under Article 141.

91. Accordingly, the authorities relied upon by Mr. Nayak concerning illegal appointments, absence of sanctioned posts, and judicial restraint in directing regularisation or creation of posts do not answer the controversy arising in the present case.

92. Now, coming to the reliance of the State respondents upon **Nisevi Asumi** (supra)**,** the decision arose in a materially different statutory framework concerning posthumous regularisation under the service rules applicable in the State of Nagaland. It did not involve the Assam-specific regularisation framework considered in **Sukhendu Bhattacharjee** (supra)**.**

93. Similarly, the decisions in **Uday Pratap Thakur** arose in materially different contexts concerning the regularisation or validity of statutory rules. They did not involve the present Assam Specific Policy Framework governing regular work charged/Muster Roll employees, which was subsequently

considered in **Sukhendu Bhattacharjee** (supra)**.**

94. The decision in **Sudhanshu Shekhar Jana** (supra) arose in the context of interpreting specific amendments to the Odisha Pension Rules regarding the counting of pre-regularised service for pension purposes after regularisation. The controversy therein is materially different from the Assam-specific framework considered in **Sukhendu Bhattacharjee** (supra) and therefore does not govern the present appeal.

95. <u>The present judgment is confined to employees engaged before 01.04.1993 who were otherwise covered by the Assam policy framework and remain excluded solely due to an administrative omission, despite their eligibility</u> (emphasis supplied).

Nothing contained herein shall be construed as laying down an absolute proposition that every work-charged employee becomes entitled to regularisation or pension merely by long service, which is to be determined in appropriate individual cases and before the appropriate forum, as held in the **Assam Work-Charged Employees Association**.

96. Now coming to the judgments relied upon by the learned Counsel for the employees, in **Prem Singh** (supra)**,** the Hon'ble Supreme Court recognised that where work-charge employees rendered long and uninterrupted service substantially akin to regular governmental employment, the

state could not deny pensionary benefits solely based on original nomenclature. The court also noted that genuine work-charge engagements are ordinarily project-specific and temporary, unlike long-standing institutionalised services extending over decades.

97. In **Rajkaran Singh** (supra) and **Vinod Kumar** (supra), the Hon'ble Supreme Court reiterated that a long duration of service, coupled with regular scales of pay, service benefits, and institutional integration, may substantially dilute the purely temporary character of the engagement.

The Court further held that where the actual course of employment evolves over decades into one that is substantially indistinguishable from regular governmental service, substantive rights cannot be denied solely based on initial nomenclature or procedural classification.

98. The principles recognised in **Prem Singh** (supra), **Rajkaran** and **Vinod Kumar** (supra) reinforce the conclusion reached in **Sukhendu Bhattacharjee** (supra)**.**

These decisions recognise that where employees continue in service for decades, receive regular scales of pay, annual increments, service benefits, and remain integrated into the functioning of government, substantive rights cannot be denied solely based on the original nomenclature of appointment.

The emphasis of these decisions is that the substance of the employment must prevail over form, where the actual course of service demonstrates long-term integration into regular governmental work. The admitted facts in the present case satisfy these parameters as well.

99. In the present case, the admitted materials revealed continuous long service; similar scales of pay; annual increments; maintenance of the Service Book and GPF account; and uninterrupted discharge of parental governmental functions. The state itself, therefore, formulated the policy to regularise the services of those Muster Roll and Work Charged employees who were appointed prior to the cut-off date of 1.4.1993 and were in continuous Service.

100. The materials placed before this Court revealed that the concerned employees were not engaged in sporadic or genuinely project-bound assignments in the ordinary sense of work-charge establishments. Rather, they served continuously for extraordinarily long periods; received regular scales of pay; earned annual increments; maintained service books and GPF accounts; remained under the full administrative control of the department; and continued in service till death/superannuation while discharging perennial governmental functions.

101. More importantly, the materials on record reveal that the employees were otherwise similarly situated to the category of employees regularised pursuant to the Cabinet decision

dated 22.07.2005 and were left out solely due to administrative omissions attributable to the employer authorities. The departmental authorities themselves acknowledged such an omission and recommended corrective measures.

102. Their cases, therefore, stand squarely covered by the principles laid down and the directions issued in **Sukhendu Bhattacharjee** (supra)**.**

103. Once the Hon'ble Apex Court has recognised that similarly situated left-out employees engaged before 01.04.1993 were also entitled to regularisation, including by creation of supernumerary posts, the denial of consequential pensionary and retiral benefits to the present appellants cannot be sustained.

104. The impugned judgments rendered by the learned Single Judges in WP(C) No.1177/2017 (in WA No.156/2025), WP(C) No.2353/2024 (in WA No.163/2026), WP(C) No.229/2023 (in WA No.142/2026), and WP(C) No.3733/2024 in (WA No.294/2024) therefore, calls for interference. Accordingly, the same stands set aside; the judgments passed in WP(C) No.4431/2008 in WA No.57/2026 and WP(C) No.2386/2008 in WA No.392/2015 are affirmed. And the following directions are issued:

I. The husband of the appellant in WA No. 156/2025, and the appellants in WA No. 163/2026, WA No.142/2026 and

WA No.294/2024 and the respondent Nos. 1 to 6 in WA No. 57/2026 and respondent Nos.1 to 8 in WA No.392/2015, shall be treated as forming part of the category of similarly situated left-out Muster Roll/Work charged employees covered by the Cabinet decision dated 22.07.2005.

II. The respondent authorities shall undertake consequential exercise for regularisation, including, where necessary, the creation of supernumerary posts, in terms of the principles laid down and directions issued in **Sukhendu Bhattacharjee** (supra).

III. In respect of deceased employees, consequential family pension benefits, including arrears and other terminal dues, if any, shall be calculated in favour of their legal heirs, if any, in accordance with law.

IV. In respect of the appellant in WA No.163/2026 & WA No. 142/2026, consequential retirement and pensionary benefits shall be recalculated and released accordingly.

V. The entire exercise shall be completed within one year of receipt of a certified copy of this judgment.

VI. Accordingly, the appeal preferred by the State i.e., WA No. 57/2026 & WA No.392/2015 stands dismissed with the modifications that the direction issued hereinabove shall also be applicable to them.

VII. The present directions are confined to employees engaged before 01.04.1993 and otherwise covered by the Assam Policy Framework considered in **Sukhendu Bhattacharjee** (supra).

105. The appeals are accordingly allowed.

<u>Writ Appeal No. 17/2026</u>:

106. The case of the present appellant Smt. Mandrilla Basumatary stands on a different footing. It is undisputed that her husband entered service subsequent to the cut-off date of 01.04.1993. The brief facts of the case are as under:

a. **Mandrila Basumatary**, a widow of the late Bidang Basumatary, who was working as a Work-Charged Section Assistant under the establishment of the Gossaigaon Public Works Department (Building) Sub-Division against a vacant sanctioned post. He was appointed on 20.06.1998, in pursuance of the office order No. 128 of 1998-99, as a Work-Charged Section Assistant temporarily in the Scale of Pay of Rs. 1065-20-1225-30-1345-eb-30-1435-40-1635-50-2035-60-2095/-.

b. Accordingly, he joined the service on 23.06.1998 and worked continuously without any break for nearly 20 years until his premature death on 26.02.2018.

c. During the service period of late Bidang Basumatary, he received the regular Scale of Pay under the ROP Rules, annual increments, and an enhanced Grade Pay, all of which were properly recorded in the Official Service Roll maintained by the Department.

d. After the death of the said employee, the appellant approached the authority to seek the grant of family pension, considering the length of service and the nature of employment. Still, the authority stated that it was unable to grant any family pension, as her husband's service was not formally regularised until the date of his death.

e. However, the Executive Engineer, PWD, Kokrajhar Building Division, submitted a fresh proposal to the Government through the proper channel, in the prescribed format, for posthumous regularisation of service to provide the benefit of pension/family pension. However, the same has not been considered to date.

f. Assailing such a decision, the appellant filed WP(C) No. 5026/2020.

g. By the judgment dated 28.08.2025, the learned Single Judge dismissed the said writ petition following the determination made in the case of ***Ujala Narzary Vs. State of Assam and Ors (WA 1/2022)***.

h. Accordingly, the connected writ appeal is preferred.

107. It is undisputed that her husband entered service subsequent to the cut-off date of 01.04.1993 and on 20.06.1998. Consequently, his case does not fall within the policy framework which formed the basis of the decision in Sukhendu Bhattacharjee (supra).

108. As determined hereinabove, the relief granted in Sukhendu was confined to employees admittedly covered by the State policy but who had been left out from its implementation owing to administrative lapses.

109. At the same time, while deciding the appeal preferred by **All Assam Work Charged Association**, as recorded in the previous part of this judgment, the Supreme Court clarified that employees who do not fall within the ambit of the aforesaid policy would be at liberty to pursue such independent claim as may be available to them in law on the basis of any statutory, constitutional or other enforceable right. The Hon'ble Supreme Court, in our opinion, thus left questions open for determination before the appropriate forum.

110. The impugned judgment, however, reveals that the writ petition came to be dismissed principally placing reliance on ***Ujala Narzary Vs. State of Assam*** (supra), which is again based on determination made in **Upen Das** (supra)**, more particularly the findings that "*Muster Roll Workers,***

Work Charged Workers and Casual Workers are not entitled for regularisation of their services with consequential benefits".

111. The question whether the appellant possesses any independent statutory, constitutional or other enforceable right beyond the policy framework was not properly considered in the impugned judgments, particularly in view of the principle already settled in **Upen Das** (supra) that no work charged or Muster Roll workers and casual workers are entitled to regularisation with consequential benefits such as pension. Since the Hon'ble Supreme Court has itself reversed such decision and opined for adjudication of such claim before the appropriate forum, we consider it not appropriate to pronounce upon them for the first time in the present intra-court appeal.

112. We therefore are of the considered opinion that the judgment and order of the learned single judge, insofar it relates to the present appellant, deserves to be set aside, which is accordingly done.

113. The writ petition shall stands restored to the file of the learned Single Judge for a fresh decision which shall also take into consideration whether the appellant is entitled to any relief on the basis of any statutory constitutional or other enforceable right independent of the policy of the State.

114. Liberty is granted to both sides to file such additional pleadings and affidavit as may be considered necessary.

115. It is made clear that all questions on facts and law are kept open and that we have expressed no opinion on the merits of the appellant's claim.

116. Accordingly, the Registry is directed to restore the WP(C) No.5026/2020 to its original file and place before the learned Single Judge as per roaster, preferably on 20.08.2026.

117. Accordingly, the appeal stands disposed of.

118. No order as to costs.

JUDGE **CHIEF JUSTICE**

Comparing Assistant