

GAHC010090332021



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

**Case No. : WA/150/2021**

KANDARPA CHOUDHURY AND 3 ORS.  
S/O LATE SARAT CHOUDHURY, R/O VILL-BARBANG, BAMUNPARA,  
BARPETA, PIN-781325

2: PABITRA KUMAR PATHAK  
S/O LATE SARAT CHANDRA PATHAK  
R/O PATHAK HATI  
NEAR BARPETA XATRA  
BARPETA  
PIN-781301

3: MD. AHAL KHAN  
S/O LATE KALU KHAN  
R/O JOTI GAON  
BARPETA  
PIN-781301

4: MAJIBAR RAHMAN  
S/O LATE RAFIQUE ALI  
R/O VILL-TENGAGAON  
SARBHUK  
BARPETA  
PIN-78131

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, WATER RESOURCES DEPARTMENT, DISPUR,  
GUWAHATI-781006

2: COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM  
FINANCE DEPARTMENT  
DISPUR

GUWAHATI-781006

3:THE SECRETARY TO THE GOVERNMENT OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

4:THE CHIEF ENGINEER  
WATER RESOURCES DEPARTMENT  
GOVERNMENT OF ASSAM  
CHANDMARI  
GUWAHATI-781003

5:THE EXECUTIVE ENGINEER  
BARPETA WATER RESOURCES DIVISION  
BARPET

**Advocate for the Petitioner** : MR. K N CHOUDHURY

**Advocate for the Respondent** : SC, WATER RESOURCE

**– B E F O R E –**

**HON'BLE THE CHIEF JUSTICE MR. SUDHANSHU DHULIA**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**15-06-2021**

**(Sudhanshu Dhulia, CJ)**

The matter is taken up through video conferencing.

Heard Mr. KN Choudhury, learned senior counsel for the appellants. Also heard Mr. D Saikia, learned Advocate General, Assam and Mr. B Goswami, learned Standing Counsel, Water Resources Department appearing for the respondents.

This writ appeal has been filed against the judgment and order dated 18.05.2021 passed by the learned Single Judge in WP(C) 9374/2019.

The petitioners before the learned Single Judge challenged the impugned show-cause notice dated 14.11.2019 by which explanation was called for as to why they should not be reverted back from the post of Section Assistant to that of *Khalasi*. All the same, the writ petition [WP(C) 9374/2019] filed by the petitioners did not find favour with the learned Single judge and it was dismissed. Subsequently the petitioners are before this Court in the present writ appeal.

In a similar matter, i.e. WA 148/2021, while hearing the said appeal, we made a limited intervention in the matter by directing that the petitioners/appellants would continue to get the salary of Section Assistant with certain other directions, until further orders. Since this matter is absolutely similar to the matter in WA 148/2021, learned senior counsel Mr. KN Choudhury prays that the said interim order be also granted in favour of the present writ appellant.

Mr. D Saikia, learned Advocate General, who is for the State and had appeared in the earlier matter as well, admits the position that this matter is absolutely similar to the one in which interim order dated 11.06.2021 was passed.

In view of the above submission, we pass the same order as it was passed in WA 148/2021 on 11.06.2021 and order as follows:

Purely on considerations of the fact that the petitioners had been working as Section Assistant since 2010, even though by way of a temporary promotion, and more importantly they had been getting salary on the post of Section Assistant, we make a limited intervention at this stage. The petitioners shall continue to be given salary of Section Assistant until further orders of this Court.

However, they would presently have no lien on the posts of Section Assistant. The Department concerned shall be at liberty to take the work from the petitioners, as the contingency demands the work of a Section Assistant or that of a Khalasi. The petitioners will duly abide by the same, till the matter is heard on its merit.

List on **August 4, 2021** along with WA 148/2021.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**