

GAHC010174502021



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

**Case No. : WA/292/2021**

BISWA BORDOLOI AND 11 ORS  
S/O LT. JOGEN BORDOLOI, R/O TORAJAN SONARI GAON, P.O. JORHAT, PIN-  
785001, DIST. JORHAT, ASSAM

2: HEMA KANTA DUARAH  
S/O PUNESWAR DUARAH  
R/O CHARING DUARAH PAR  
P.O. CHARING  
PIN-785644  
DIST. SIVASAGAR  
ASSAM

3: MRIDUPABAN DAS  
S/O BHELURAM DAS  
R/O SILIKHABARI  
PIN-785630  
DIST. JORHAT  
ASSAM

4: DHIREN BORAH  
S/O LT. BETHARAM BORAH  
R/O VILL. DA-GAYAN GAON  
P.O. DHEKORGORA  
PIN-785015  
DIST. JORHAT  
ASSAM

5: SUKHIRAM GOGOI  
S/O LT. MONIRAM GOGOI  
R/O NO. 2  
MOTHADANG GAON  
P.O. DEMOWMUKH  
PIN-785640  
DIST. SIVASAGAR

ASSAM

6: PULIN SAIKIA  
S/O LT. BUBAI SAIKIA  
R/O NATUN BALIGAON  
P.O. KOKILAMUKH  
PIN-785108  
DIST. JORHAT  
ASSAM

7: RANA KUMAR BOIRAGI  
S/O LILAKANTA BOIRAGI  
R/O MOGRAHAT CHETIA GAON  
P.O. MOGRAHAT  
PIN-785666  
DIST. SIVASAGAR  
ASSAM

8: HEM SARMAH  
S/O LT. BHADRALAL SARMAH  
R/O RAJABARI E AND D COLONY  
P.O. RAJABARI  
PIN-785014  
DIST. JORHAT  
ASSAM

9: BOPARAM BORAH  
S/O LT. MOHAN BORAH  
R/O JORHAT  
ELD COLONY  
RAJABARI  
JORHAT  
PIN-785014  
DIST. JORHAT  
ASSAM

10: DURGESWAR HAZARIKA  
S/O LT. BOGIRAM HAZARIKA  
R/O MELENG BORKHOLIA  
P.O. BORKHOLIA  
PIN-785101  
DIST. JORHAT  
ASSAM

11: DILIP KR. BORAH  
S/O LT. BOGIRAM HAZARIKA  
R/O NAPAMUA GAON  
P.O. KALIANI

PIN-785015  
DIST. JORHAT  
ASSAM

12: SUSHIL TAMULI  
S/O LT. KANTHIRAM TAMULI  
R/O NO. 1  
LAKHIMIKHAT GAON  
P.O. KALIANI  
PIN-785018  
DIST. JORHAT  
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,  
WATER RESOURCES DEPTT. DISPUR, GUWAHATI-781006.

2:THE SECRETARY  
TO THE GOVT. OF ASSAM WATER RESOURCES DEPTT. DISPUR  
GUWAHATI-781006

3:THE CHIEF ENGINEER  
WATER RESOURCES DEPTT. GOVT. OF ASSAM  
CHANDMARI  
GUWAHATI-781003

4:THE EXECUTIVE ENGINEER  
JORHAT MECHANICAL WATER RESOURCES DIVISION  
JORHAT-14  
ASSAM

5:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
FINANCE DEPTT. DISPUR  
GHY-6  
ASSA

**Advocate for the Petitioner** : MS D BORGOHAIN, MS. M SARMAH,MR. P GOHAIN

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

Linked Case : WA/151/2021

JATISH CHANDRA BORA AND 2 ORS.  
S/O LATE BHUGDHAN BORA  
R/O HATIPARA  
DIST. NAGAON  
PIN-782003

2: AFTABUL HAQUE  
S/O LATE ABU KAYES  
R/O PURANIGUDAM  
DIST. NAGAON  
PIN-782141

3: ATATUR RAHMAN  
S/O JIYAU HAQUE  
R/O FAUZDARI PATTY  
DIST. NAGAON  
PIN-782003  
VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

2: THE SECRETARY TO THE GOVT. OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

3: THE CHIEF ENGINEER  
WATER RESOURCES DEPARTMENT  
GOVT. OF ASSAM  
CHANDMARI GUWAHATI-781003

4: THE EXECUTIVE ENGINEER  
GUWAHATI WEST WATER RESOURCE DIVISION  
BHARALUMUKH  
GUWAHATI-781009

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Advocate for : MR. K N CHOUDHURY  
Advocate for : SC

WATER RESOURCE appearing for THE STATE OF ASSAM AND 3 ORS.

Linked Case : WA/148/2021

MADHAB DEKA AND 3 ORS  
S/O LATE KHITISH CHANDRA DEKA  
R/O DURGA SAROBAR  
GUWAHATI  
KAMRUP  
ASSAM  
PIN-781009

2: MD. SALAMUDDIN AHMED  
S/O LATE ALI AKBAR ALI  
R/O HAJO  
MUSLIM PATTY  
P.O. AND P.S.-HAJO  
KAMRUP  
ASSAM  
PIN-781102

3: SMTI. ANJUMONI SARMAH  
W/O SRI PRADIP CHAKRAVORTY  
R/O BASISTHA  
RIVER RESEARCH COLONY  
GUWAHATI  
KAMRUP  
ASSAM  
PIN-781029

4: HITENDRA NATH SHARMA  
S/O LATE BISWANATH SARMA  
R/O PUTHIMARI  
HARIPUR  
KAMRUP  
ASSAM  
PIN-781382  
VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

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

3:THE CHIEF ENGINEER  
WATER RESOURCES DEPARTMENT  
GOVT. OF ASSAM  
CHANDMARI  
GUWAHATI-781003

4:THE EXECUTIVE ENGINEER  
GUWAHATI WEST WATER RESOURCE DIVISION  
BHARALUMUKH  
GUWAHATI-781009

5:THE COMMITTEE  
CONSTITUTED FOR EARMARKING PERCENTAGE OF VACANCIES IN  
GRADE -III TO BE FILLED UP ON PROMOTION FROM GRADE-IV  
REPRESENTED BY ITS CHAIRMAN  
OFFICE OF THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT  
OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

6:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
ASSAM  
FINANCE DEPARTMENT  
DISPUR  
GUWAHATI-781006

7:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM  
PERSONNEL DEPARTMENT  
DISPUR  
GUWAHATI-781006

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Advocate for : MR. K N CHOUDHURY  
Advocate for : SC  
WATER RESOURCE appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : 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-781317  
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  
BARPETA  
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Advocate for : MR. K N CHOUDHURY  
Advocate for : SC  
WATER RESOURCE appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : WA/149/2021

KHANINDRA DEKA  
S/O LATE HARI CHANDRA DEKA  
R/O SANTIPUR  
MANGALDOI  
DIST-DARRANG  
ASSAM  
PIN-784125

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM  
WATER RESOURCES DEPARTMENT  
DISPUR  
GUWAHATI-781006

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

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

4:THE EXECUTIVE ENGINEER  
GUWAHATI MANGALDAI WATER RESOURCE DIVISION  
MANGALDAI

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Advocate for : MR. K N CHOUDHURY  
Advocate for : SC  
WATER RESOURCE appearing for THE STATE OF ASSAM AND 3 ORS

For the appellants : Ms. D. Borgohain and Mr. P. Gohain,  
Advocates in WA 292/2021  
Mr. K.N. Choudhury, Sr. Advocate  
Assisted by Mr. R.M. Deka, Advocate  
in other writ appeals.

For the respondents : Ms. S. Chutia,  
S.C., Water Resource Deptt.

– B E F O R E –

**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI**

**HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

**19-09-2024**

*(Vijay Bishnoi, C.J.)*

The appellants were initially appointed as work charged cum muster roll workers in the Water Resource Department. Later on, the State government regularised their services w.e.f. 22.08.2005 while mentioning that the posts on which their services were regularised would be personal posts. When the State Government has not granted the benefit of promotion to the appellants, they have approached this Court by way of filing writ petitions. However, the learned Single Judge has rejected the claim of the appellants vide judgment and order dated 18.05.2021 relying on the decision rendered by the Division Bench of this Court in the case of *Dilip Talukdar and others vs. State of Assam and others*, reported in *2017 (2) GLT 135*.

Mr. K.N. Choudhury, learned counsel for the appellants has argued that the learned Single Judge has not taken into consideration the overall position of law and has passed the impugned judgment and order simply on the basis of the judgment passed by the Division Bench of this Court, which is clearly distinguishable. The learned senior counsel has also submitted that even though if

it is assumed, without admitting, that the appellants are not entitled for the benefit of promotion, because they have been declared as regular State government employees they are entitled for the benefit under the Modified Assured Career Progression Scheme (MACPS) introduced vide Notification dated 06.07.2017, which is applicable to the regular State government employees.

Without deliberating further, we are of the opinion that the State government should clarify its stand whether the appellants, who are now the regular State government employees, can be granted the benefit of the MACPS or not.

Ms. S. Chutia, learned Standing Counsel, Water Resource Department appearing on behalf of the learned Advocate General is granted time to complete instructions by the next date of hearing.

List on **23.10.2024.**

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**