

GAHC010115142025



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

Case No. : WA/211/2025

1: KAMOLESH DAS AND 3 ORS.
SON OF PRNOBESH SHIL, RESIDENT OF GAURIPUR, WARD NO. 2,
P.O AND P.S- GAURIPUR, DISTRICT- DHUBRI, ASSAM, PIN-783331.

2: SHAHAJAHAN RAHMAN
S/O AFIZUR RAHMAN VILL. CHAGALCHARA PT-III
P.S. DHUBRI DIST. DHUBRI ASSAM PIN 783331

3: MOBASHIR ALOM
S/O TAZUDDIN AHMED R/O BIDYAPARA PT-2
COLLEGE ROAD P.S. DHUBRI DIST. DHUBRI ASSAM PIN 783301

4: AMINUR RAHMAN PRADHANI
S/O ACHIM UDDIN PRADHANI
VILL. DEBOTTAR HASDOHA PT-6 PIN 78333

VERSUS

1: THE UNION OF INDIA AND 9 ORS. TO BE REPRESENTED BY THE
SECRETARY GOVT. OF INDIA, MINISTRY OF HEALTH AND FAMILY
WELFARE, NIRMAN BHAWAN, NEW DELHI-110011.

2: THE DIRECTOR GENERAL (PH) DIRECTORATE OF HEALTH SERVICES
GOVT. OF INDIA NIRMAN BHAWAN NEW DELHI 110011

3: DEPUTY DIRECTOR (ADMINISTRATION) DIRECTORATE GENERAL OF
HEALTH SERVICES GOVT. OF INDIA NIRMAN BHAWAN NEW DELHI 110011

4: THE STATE OF ASSAM REPRESENTED BY COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM HEALTH AND FAMILY WELFARE DEPTT.
DISPUR GUWAHATI 781006

5: THE JOINT SECY. TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT. DISPUR GUWAHATI 06

6:DIRECTOR OF HEALTH SERVICES
ASSAM HENGRABARI GUWAHATI 36

7:THE DEPUTY COMMISSIONER
DHUBRI P.O. AND DIST. DHUBRI ASSAM PIN 783301

8:JOINT DIRECTOR OF HEALTH SERVICES CUM MEMBER SECY. DIST.
HEALTH SOCIETY DHUBRI DIST. P.O. AND DIST. DHUBRI ASSAM PIN
783301

9:THE SUPERINTENDENT DHUBRI CIVIL HOSPITAL
DHUBRI DIST. DHUBRI (ASSAM) PIN 783324

10:HOSPITAL MANAGEMENT SOCIETY DHUBRI CIVIL HOSPITAL
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
DHUBRI P.O. AND DIST. DHUBRI ASSAM PIN 78330

For the Appellant(s) : Mr. H.R.A. Choudhury, Sr. Advocate, assisted by Mr. A.Z. Ahmed,
Advocate.

For the Respondent(s) : Ms. R. Devi, Central Government Counsel for respondent Nos.1, 2 & 3.
: Mr. D.P. Borah, Standing Counsel, Health & Family Welfare
Department for respondent Nos.4, 5, 6, 8 & 9.
: Ms. S. Sarma, Government Advocate, Assam for respondent Nos.7 &
10.

- B E F O R E -

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

15.09.2025

(Ashutosh Kumar, CJ)

We have heard Mr. H.R.A. Choudhury, learned Senior Advocate, assisted by Mr. A.Z. Ahmed for the appellants and Mr. D.P. Borah, learned Standing Counsel, Health & Family Welfare Department for the respondent Nos.4, 5, 6, 8 & 9.

In the year 2000, a Memorandum of Understanding was executed between the Ministry of Health & Family Welfare, Government of India and the Government of Assam for implementation of the National Programme for Prevention and Management of Burn Injuries. The objective of this National

Programme was to establish adequate treatment facilities for burn injuries, especially in District Level Hospitals and their peripheral Health Care Institutions. Under the terms of this Programme, one Medical College and two adjacent districts in three States were selected initially for implementation. In the State of Assam, Gauhati Medical College & Hospital was selected as the main Centre with Nagaon and Dhubri Districts as peripheral Units to be covered under the Project.

Pursuant to this Memorandum of Understanding, the Joint Director of Dhubri Civil Hospital and the Deputy Commissioner of Dhubri District, acting as the Chairman of the Hospital Management Society of Dhubri Civil Hospital, jointly issued advertisements inviting applications for various contractual posts to run the Burn Unit at Dhubri Civil Hospital.

The appellants had applied and had participated in the selection process and were duly selected and appointed against different posts and started rendering services in the Burn Units.

Later, Dhubri Medical College & Hospital was established. The Dhubri Civil Hospital was closed down and the building was dismantled. The services which were being provided by the erstwhile Dhubri Civil Hospital, are now being provided by the Dhubri Medical College & Hospital in a better and efficient manner.

This Court has also been informed that the Nagaon Burn Unit in the Civil Hospital also has been discontinued as Nagaon Medical College & Hospital has also come up in the meanwhile.

Since full-fledged Hospitals are running at Dhubri and Nagaon, the services of the appellants were discontinued on the ostensible ground of their appointment on contractual basis having been made by the Health Society and

not by the Government and that the entire mechanism under which treatment to burn victims were given, have undergone a paradigm shift with the opening of two new independent Medical Colleges & Hospital at Nagaon and Dhubri.

The learned Senior Advocate for the appellants has submitted that all that they required was that their services be considered and they be suitably accommodated.

Under the Memorandum of Understanding, referred to above, it was clearly stated that on successful completion of the Project, the activities, namely, opening of the Burn Units, will become part of a regular Scheme and its coverage in terms of States and Institutions will be subsequently extended.

The State Government in the afore-noted undertaking agreed that it shall take over the responsibility for maintaining the Burns Department after the end of 11th five year plan, i.e. 31.03.2012, and it shall also take over the liability of the staff recruited on contractual basis at the end of 11th five year plan. The State Government promised to take steps in advance to engage manpower on permanent basis for running the Burns Department.

The State has also declared in the Memorandum of Understanding that it would be under an obligation to create regular posts against sanctioned contractual positions so that by the end of 11th five year plan, necessary posts would exist for a smooth continuation of burns care services. It was clarified that the officials to be engaged on contract basis initially would be engaged only if they are found eligible as per the Guidelines laid down.

With this declaration in the Memorandum of Understanding, the appellants expected that their services, too, would be regularized or at least they shall be made to appear in the recruitment process for filling up those posts for running the Burn Centres in the two Hospitals which have come up

over a period of time. Their claims have been repudiated only on the ground that their initial appointments were by the State Health Society, which itself is no longer in existence and that in place of those Burn Units in the Civil Hospitals, independent Medical College & Hospitals have been set up at Nagaon and Dhubri, requiring the earlier Civil Hospitals at the two places to be dismantled for all practical purposes.

The question is whether the State can come out of this promise and not allow any avenue for the appellants to apply for different contractual posts, which otherwise, would have been regularized by now and sanctioned too.

At this stage of hearing, we thought it fit to request Mr. D. Saikia, learned Advocate General, Assam to look into the matter so that the trained contractual employees in the erstwhile Burn Care Units could get an avenue for coming in the service of the State in the two Hospitals, referred to above, which would be beneficial for the Hospital Administration as also for the appellants.

The learned Advocate General submits that he shall look into the matter and get back to this Court on the next date.

Re-notify on **24.09.2025**.

JUDGE

CHIEF JUSTICE

Comparing Assistant