

GAHC010118422025



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

Case No. : WA/199/2025

M/S. ASSAM CO-OPERATIVE SPINNING MILLS EMPLOYEES UNION
REP. BY THE SECRETARY, BOITAMARI, BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, DISPUR,
GUWAHATI.

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
CO-OPERATIVE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PUBLIC ENTERPRISES DEPARTMENT
DISPUR
GUWAHATI-06

4:COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

5:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
GOVT. OF ASSAM
KHANAPARA, GUWAHATI-22

6:THE DEPUTY REGISTRAR-CUM-LIQUIDATOR
OFFICE OF THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES
GOALPARA, ASSAM

For the appellant/petitioner(s) : Mr. M. Saikia, Advocate

For the Respondent(s) : Mr. G. Bordoloi,
SC, Co-operation department
Mr. S. Baruah, Jr. GA, Assam

- B E F O R E -

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

31.03.2026

(AshutoshKumar, CJ)

We have heard Mr. M. Saikia, learned Advocate for the appellant, and Mr. G. Bordoloi, learned Standing Counsel, Co-operation Department, and Mr. S. Baruah, learned Junior Government Advocate, Assam, for the respondents.

This writ appeal is directed against the judgment dated 30.04.2025, passed in WP(C) No. 6390/2022 by a learned Single Judge of this Court.

The appellant herein is the Assam Co-operative Spinning Mills Employees Union (hereinafter referred to as "union"), registered in the year 1992, which represents the workers of the now closed/defunct Assam Co-operative Spinning Mills Ltd., Boitamari, Bongaigaon.

It appears that the Mill was set up in the year 1979 as a State sponsored cotton spinning Mill unit. However, the production in the Mill was stopped in the year 1994 due to lack of raw materials, working capital and mismanagement, leaving the workers unpaid since August, 1994.

There were many attempts to revive the Mill, including a 49 years' lease to a private firm of Orissa in the year 2000, but the Mill could not be

revived. Since 2004, the appellant union had been demanding the benefits under the revised Voluntary Retirement Scheme (VRS), 2006 for the employees of the State Level Public Enterprises (SLPE) of Assam, which was notified on 15.02.2006.

The records reveal that the registration of the Mill was cancelled on 30.10.2010, whereafter a liquidator was appointed. The industrial unit was finally closed down on 29.07.2011, which was notified by the Co-operation department and confirmed by the Public Enterprises Department.

A writ petition came to be filed by the appellant union vide WP(C) No. 5203/2011, wherein a Bench of this Court, vide order dated 18.11.2014, gave a direction to the respondents to finalise the VRS by 31.03.2015.

Despite the direction, when the scheme was not introduced or acted upon with respect to the workers affiliated to the appellant union, a contempt case was filed. During the pendency of that contempt petition, a Chartered Accountant was appointed by the State, who calculated the financial liability towards implementation of the VRS with respect to the employees, but only up to 30.10.2010, which was the date of cancellation of the registration of the Mill, and did not include House Rent allowances and Medical allowances in the VRS benefits.

In any view of the matter, the contempt case was closed giving the liberty to the appellant union to challenge such calculation afresh.

Pursuant to the afore-noted liberty, the appellant union preferred WP(C) 6390/2022 claiming that the VRS must be calculated up to 29.07.2011, which is the actual date of official closure of the Mill, and that

House Rent allowances and Medical allowances, being salary components, could not have been excluded from VRS benefits.

It appears that the learned Single Judge, vide the impugned judgment rejected both the prayers of the writ petitioners, holding that no specific VRS scheme/proposal was placed on record in order to satisfy the Court that the VRS benefits were payable to the workers of the appellant union from the date of cancellation of the registration of the Mill, or from the date of final closure of the Mill. That apart, the learned Single Judge also held that in the absence of any challenge to the cancellation of the registration of the Mill on 30.10.2010, all works in the Mill must have stopped and, therefore, it could not be claimed by the workers for calculation of their VRS benefits from the date of final closure of the Mill, because, for all practical purposes, the VRS contains clauses which have to be acceptable to the parties. In that context, it was observed by the learned Single Judge that in the absence of any attempt of the union/workers of challenging the cancellation of the registration of the Mill, no fault could be found with the Chartered Accountant entrusted by the government to calculate the VRS till the date of cancellation of the registration of the Mill, and not from the date of final closure, which is only on the paper.

The VRS, which was notified on 15.02.2006 for the employees of the State Level Public Enterprises of Assam, clearly provides that the package under the VRS, in all the State Level Public Enterprises in the State, irrespective of the fact whether the State Level Public Enterprises are to be closed or revived, or whether the State Level Public Enterprises can afford to discharge the dues to the employees on account of VRS from

their own resources generation, but excluding Assam State Electricity Board, will include, (i) ex-gratia of 15 days pay (basic pay + dearness allowances) only against each completed year of service rendered or for the months of service left, whichever is less; (ii) cash payment for unutilized leave for a maximum period of 240 days (basic pay + dearness allowance only); (iii) balance of Contributory Provident Fund (CPF) dues payable as per Regulation of CPF; (iv) Gratuity as per Gratuity Act; (v) unpaid salary/wages (basic pay + dearness allowance) up to the date of acceptance of VRS by the employee; (vi) Savings of Group Insurance Scheme.

In all the calculations of the VRS benefits, according to the 2006 revised policy, the basic pay and rate of dearness allowance would be taken as on the date of application by an employee opting for VRS, or the date of closure of the State Level Public Enterprise, whichever is applicable. It was also specified in the policy of 2006 that no request for any revision would be entertained thereafter.

One of the conditions stipulated in the 2006 revised policy is that full implementation of the VRS will precede the filing of closure application in respect of the State Level Public Enterprises.

The learned counsel for the appellant union, while assailing the judgment of the learned Single Judge, who did not find any enforceable legal right of the workers to have been proved, submitted that the policy of 2006 clearly stated that the benefits have to be given after the date of closure of the State Level Public Enterprises, which, in this case, is 29.07.2011 and that House Rent allowances/ Medical allowances are salary components as per the settled law. The contention, therefore, is

that the date of cancellation of registration of the Mill was wrongly used as the watershed date for calculating the VRS benefits with respect of the employees/workers of the Mill.

In other words, for the workers having remained unpaid for more than 30 years, they got only partial VRS benefits and because of such date of cancellation of the registration having been applied as the cut-off date for calculating the VRS benefits, the workers were deprived of the benefits of 9 months' salary, House Rent allowances and Medical allowances.

The issue, therefore, before this Court is as to what would be the correct date for calculation of the VRS benefits under the 2006 VRS policy: would it be the date of cancellation of the registration, or the date of closure of the industrial unit.

The other issue is that, in the case of the appellant union and the workers affiliated to it, there was no specific date of acceptance and, in that case, whether the date of final closure of the Mill should have been the determinative date.

The ancillary ground raised in this appeal, which requires adjudication, is whether House Rent allowance and Medical allowance are required to be calculated as salary component in calculation of the VRS benefits with respect to the closed State Level Public Sector Enterprises.

The question, therefore, would be as to whether the respondents can unilaterally fix a date for calculation of the VRS benefits without even specifying as to what would be the relevant date. A downward cut-off date, according to the appellant, is not only arbitrary but it also breaches

the *promissory estoppel* and violates the interest of justice.

The matter is required to be heard.

Admit.

List for hearing on **17.07.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant