

GAHC010144032023



2026:GAU-AS:634

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

Case No. : Cont.Cas(C)/424/2023

ALAKA RANI PAUL
W/O- MANINDRA PAUL,
R/O- LAKSHISHAHAR, WARD NO-8,
P.O- LAKSHISHAHAR,
P.S- HAILAKANDI,
DIST- HAILAKANDI, ASSAM, PIN-788152

VERSUS

SIDHARTH SINGH AND 4 ORS
COMMISSIONER AND SECRETARY, TO THE GOVERNMENT OF ASSAM,
HEALTH DEPARTMENT, DISPUR, GUWAHATI- 781006, ASSAM.

2:ANUP KUMAR BARMAN
DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-36

DIST- KAMRUP (M)
ASSAM

3:DEBOBRATA DUTTA
SUPERINTENDENT
S.K ROY CIVIL HOSPITAL
P.O AND P.S- HAILAKANDI

DIST- HAILAKANDI
ASSAM
PIN-788015

4:DR. P ASHOK BABU

COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH DEPARTMENT
DISPUR
GUWAHATI-781006.

5:DR. UMESH PHANGCHO
DIRECTOR OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-7810036

Advocate for the Petitioner : MS. S SEAL, MS. J CHETTRY, MS. S KANUNGOE

Advocate for the Respondent : MR. T A CHOUDHURY (R-3), MR D DEKA (R-4), MR. A Y CHOUDHURY (R-3))

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

21.01.2026

Heard Ms. S. Kanungoe, learned counsel for the petitioner. Also heard Mr. D. Deka, learned counsel appearing for the respondent/ contemnor No.4 and Mr. A. Y. Choudhury, learned counsel for the respondent/contemnor No.3.

2. By way of this Contempt Petition, the petitioner is drawing the attention of this Court to the alleged willful disobedience of the order dated 01.02.2023 passed by the learned Single Judge in WP(C) No.3330/2018.

3. It appears that the petitioner by WP(C) No.3330/2018, who was serving since April, 2002 as Health Worker in the S. K. Roy Civil Hospital, Hailakandi, upon offering her candidature for the six vacancies of Ward Girl in the Hailakandi District, in terms of the advertisement dated 14.12.2017, she being not selected approached this Court assailing the same. It was the contention of the

petitioner in the writ petition that the petitioner having 16 years of experience as Health Worker ought to have received preferential consideration in the selection process and also canvassed her apprehension that her service of Health Worker may be discontinued. It was the further contention of the petitioner that she is being paid Rs. 3,000/- per month as Health Worker, which is way below the minimum salary of casual employees in State Government service.

4. While issuing notice, this Court having observed that the petitioner has rendered over 10 years of service as Health Worker, was pleased to provide interim protection as per the ratio laid down in the case of **State of Assam Vs. Upen Das and others** reported in **2020 (5) GLT 605**. Thereafter, the matter having come up for final hearing, this Court after hearing the parties, by Judgment and Order dated 01.02.2023 was pleased to dispose of the writ petition by observing and directing as under –

“Since there is no wrangle at the bar that in view of the decision rendered in the case of Jadumoni (Supra), the petitioner would be entitled for payment of minimum pay scale and considering the fact that the petitioner has admittedly been working as Health Worker in the S. K. Roy Civil Hospital, Hailakandi since April, 2002 till date, neither the question of dispensation of her services nor denial of benefit of minimum scale of pay would arise in this case.

In view of the above, this writ petition is hereby disposed of by making the interim order dated 25-05-2018 as absolute with a further direction that the case

of the petitioner shall be considered for grant of minimum pay scale in the light of the judgment rendered in the case of Jadumoni (Supra) and appropriate order be passed in that regard within a period of 03 (three) months from the date of receipt of a certified copy of this order"

5. It is the specific case of the contempt petitioner that despite a positive direction passed by this Court to consider the case of the petitioner for grant of minimum pay scale in the light of the judgment rendered in the case of *Jadumoni Nath & Ors. –Vs- the State of Assam & Ors. (WP(C) No. 7711/2016)*, the case of the petitioner has not been considered.

6. The respondent No.4 by filing affidavit-in-opposition on 31.10.2025 submitted that the direction of this Court has been duly complied by considering the case of the petitioner. However, rejected the claim of the petitioner for grant of the benefit of the minimum pay scale by issuing a reasoned Speaking Order dated 25.07.2025. Relevant paragraphs of the aforesaid affidavit is reproduced as under :-

"9. That in the above background of facts, the answering respondent would like to state that he had, in compliance of the order dated 01.2.2023 had considered the case of the petitioner had passed a speaking order dated 25.07.2025 whereby the answering deponent considered the case of the petitioner and passed orders denying the benefit of minimum pay scale for the reasons which stand narrated in the said order dated 25.07.2025. It is stated that the petitioner's position as was directed by this Hon'ble Court has been not disturbed and she continues to hold her position in the S.K.Roy Civil Hospital under the Hospital Management Society.

10. That the answering respondent states vide order dated 25.07.2025 the answering respondent has duly complied with the direction of this Hon'ble Court passed vide

order dated 01.02.2023. The answering respondent further extends unconditional apologies for the delay in passing the order dated 25.07.2025 and prays for condoning such unintended delay and also prays that contempt proceedings be closed in view of the order dated 25.07.2025."

7. On the other hand, the petitioner by filing an affidavit-in-reply contended that since the claim of the petitioner was rejected, the same cannot be said to be compliance of the aforesaid direction of this Court's order dated 01.02.2023, in as much as, this Court had given positive direction for granting the benefit of the minimum pay scale in terms of the judgment rendered in the case of *Jadumoni (Supra)*. Relevant paragraph of the affidavit-in-reply read as under :-

*"4) That with regard to the statements made in Para 9, 10 and 11 of the Affidavit-in-Opposition, the answering deponent while denying the same states that, the respondent/contemner till date has not complied with the order of this Hon'ble Court. The Order dated 25.07.2025 is not a compliance order because in that order, it is mentioned by the Contemner No. 4 that, the revision of pay is not within his authority and such decision lies with the Hospital Management Authority which does not fall under any approved Pay Structure of Government of Assam and her engagement was purely made by the Hospital Management Society of S.K. Roy Civil Hospital, Hailakandi. Further the Order was passed in presence of departmental counsel and there was not any dispute between the parties that the petitioner is entitled for minimum pay scale considering the fact that the petitioner is admittedly working as Health Worker in S.K. Roy Civil Hospital, Hailakandi since 2002 to till date. On 01.02.2023, this Hon'ble Court disposed off the Writ Petition by making the interim order dated 25.05.2018 as absolute with a further direction that the case of the petitioner shall be considered for grant of minimum pay scale in the light of the Judgment rendered in the case of *Jadumoni Nath and others Vs. The State of Assam and others [W.P.(C) No. 7711/2016]*. Therefore, the respondent/contemner cannot deny the fruit of Judgment to the petitioner by denying minimum scale of pay to the petitioner as per Order of this Hon'ble Court."*

8. Having heard the learned counsel for the parties and having perused the materials available on record, it appears that pursuant to the judgment and order dated 01.02.2023 passed by the learned Single Judge in WP(C) No.3330/2018, the respondents have considered the case of the petitioner by passing a reasoned Speaking Order dated 25.07.2025, whereby the respondents after considering the case of the petitioner was pleased to deny the benefit of minimum pay scale, inter alia, on the ground that the petitioner was serving under the Hospital Management Society (HMS) of S.K. Roy Civil Hospital, Hailakandi and her monthly remuneration was enhanced from Rs. 6,000/- to Rs. 17,460/- w.e.f. 01.10.2023 on the basis of decision taken by the HMS and hence, revision of pay is not within the authority of the Superintendent of S.K. Roy Civil Hospital but lies with the HMS and that the petitioner was not engaged through any Government sanctioned process nor does the petitioner's post fall under any approved cadre structure of the Govt. of Assam and that her engagement was purely made by HMS. Apt to quote the Speaking Order dated 25.07.2025 issued by the Government of Assam, Health & Family Welfare Department whereby the case of the petitioner was considered and rejected.

“SPEAKING ORDER

ECF No. 492876/162

Dated Dispur the # approved date #

READ: 1. Interim order dated 25.05.2018 in W.P.(C) 3330/2018.

2. Judgement dated 01.02.2023 in W.P.(C) 3330/2018.

3. Contempt Cas(C). No. 424/2023

ALSO READ: 1. Letter issued by Health & Family Welfare Department vide No. ECF 492876/54 dated 27.05.2024

2. Letter issued by Health & Family Welfare Department vide No. ECF 492876/54 dated 17.05.2025.

3. Hon'ble High Court's Judgement dated 10.11.2022 in W.P.(C) 7711/2016.

4. This Department's earlier order No. ECF.275408/88 dated 29.08.2024.

Whereas, Smt. Alaka Rani Paul was engaged as a Health Worker (General Duty Attendant) at S.K. Roy Civil Hospital, Hailakandi in April 2002 by the Hospital Management Society (HMS) and has since been working on a fixed pay basis as per terms and conditions of Hospital Management Society, S.K. Roy Civil Hospital, Hailakandi. When the post she occupied was advertised for fresh recruitment on 14.12.2017, she challenged the same by filing W.P.(C) No. 3330/2018 before the Hon'ble Gauhati High Court;

Whereas, the Hon'ble Court issued an interim order on 25.05.2018 in W.P. (C) 3330/2018 stating In the interim, as the petitioner has rendered over ten years of service as a Health Worker, she is entitled to interim protection under the ratio of this Court's Judgement in State of Assam Vs Upen Das reported in (2017)4 GLR 493 Accordingly, the petitioner's service as Health Worker in the S.K. Roy Civil Hospital should not be disturbed, until the returnable date.";

Whereas, the Hon'ble Court in its judgment dated 01.02.2023 in W.P.(C) 3330/2018 made the interim order dated 25/05/2018 absolute and directed that her case be considered for grant of minimum pay in light of the judgment rendered in Jadumoni Nath (WP(C) 7711/2016) within three months;

Whereas, as per Judgement dated 10.11.2022 in W.P. (C) 7711/2016 in Jadumoni Nath & Others. Vs The State of Assam & Others, "As it appears, most of the petitioners have been engaged by the Hospital Management Society and not by the State Government, and only 5 out of the 29 writ petitioners are being given fixed wages Accordingly, this Court is of the view that the concerned Hospital Management Committee/State respondents will have to consider the giving of minimum scale of pay

to the petitioners, provided they are still working in the two Hospitals and are entitled to the same. Consequently, the petitioners are given the liberty to submit individual representations to the Superintendent of the two Hospitals, with regard to their claim for payment of the minimum scale of pay. The concerned Superintendent, being the Member Secretary of the concerned Hospital Management Committee, shall thereafter place the same before the appointing authority, who shall thereafter consider the case of the petitioners, with regard to payment of the minimum scale of pay and make due payment, if they are entitled to the same. The petitioners should submit their individual representations within three weeks from today. Thereafter, the decision/s on the petitioners' representations should be made within a further period of 3 (three) months from the date of receipt of a certified copy of this order and the petitioner's representations".

Whereas, in pursuance of the above judgment, this Department sought a compliance report from the Director of Health Services (DHS), Assam, along with the employment status and pay status of the petitioner vide letter no. ECF 492876/6 dated 27.05.2024;

Whereas, subsequently, a contempt case bearing Cont. Case(C) No. 424/2023 was filed for willful disobedience of order dated 01.02.2023 passed by Hon'ble Court in, WP(C) no. 3330/2018, and as per order dated 04.04.2025, the Commissioner & Secretary, Health & FW Department and the Director of Health Services, Assam, were impleaded as Respondent Nos. 4 & 5, respectively;

Whereas, in pursuance of Hon'ble High Court's order dated 4.4.2025 in Cont. Case(C) 424/2023, this Department vide letter no. ECF 492876/54 dated 17.05.2025 requested the Director of Health Services (DHS), Assam, to furnish action taken report in compliance to Hon'ble court's judgement dated 01.02.2023;

Whereas, DHS, Assam in response submitted that based on the reports from Joint Director, Hailakandi, and the Superintendent, S.K. Roy Civil Hospital, Hailakandi the petitioner was serving under the Hospital Management Society (HMS) of S.K. Roy Civil Hospital, Hailakandi and her monthly remuneration was enhanced from 6000 to 17460 w.e.f. 01.10.2023 on the basis of decision taken by the Hospital Management Society, S.K. Roy Civil Hospital, Hailakandi;

Whereas, the Superintendent of S.K. Roy Civil Hospital clarified that revision of pay is not within his authority, and such decisions lie with the Hospital Management Society:

Whereas, Smt Alaka Rani Paul was not engaged through any government-sanctioned process, nor does her post fall under any approved cadre structure of the Government of Assam and her engagement was purely made by Hospital Management Society, S.K. Roy Civil Hospital, Hailakandi;

Whereas, the department had issued an order vide No. ECF NO. 275408/88 dated 29/08/2024 in the matter of grant of minimum scale of pay:

Considering all the above facts and materials on record, the Govt. in Health & FW Department has decided to convey the following decisions:.

1. *The claim for minimum scale of pay cannot be granted by the department, as there exists no government policy or legal provision to extend such pay structures to individuals engaged by the Hospital Management Society of the concerned Health Institution, whose wages are disbursed by the respective Hospital Management Societies, and not from Government's fund.*

2. *The Superintendent of the concerned Health Institutions shall place matters with regard to claim for payment of minimum scale of pay of workers engaged by Hospital Management Societies before the respective Hospital Management Society for consideration and dispose off such matters accordingly. In this instant case Superintendent S.K. Roy Civil Hospital, Hailakandi shall place the matter pertaining to Smt Alaka Rani Paul before the Hospital Management Society for consideration.*

3. *Individuals engaged under the Hospital Management Societies, including Smt. Alaka Rani Paul, are encouraged to apply for any suitable posts advertised by the Health & Family Welfare Department from time to time, provided they meet the required eligibility criteria and qualifications."*

9. From a reading of the aforesaid Speaking Order, it appears that the respondents by giving detailed reasons have denied the grant of minimum pay scale to the petitioner. The instant petition falling under the scope and ambit of

contempt jurisdiction, this Court cannot sit in appeal against the grounds of rejection of the grant of minimum pay scale to the petitioner. It is apparent that the respondents have duly considered the case of the petitioner in terms of the direction passed by this Court. Hence, there is no willful or deliberate non-compliance of the order of this Court as contended before this Court. In view of the above, no contempt, whatsoever, is made out.

10. The petitioner is, however, at liberty to approach the competent forum in the event the petitioner is not satisfied with the speaking order dated 25.07.2025.

11. Accordingly, Contempt Petition stands closed.

JUDGE

Comparing Assistant