

GAHC010155162025



undefined

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

Case No. : WP(C)/4020/2025

DHIREN BHARALI AND ANR
S/O- SRI DHANO RAM BHARALI, R/O- VILL.- KAIHATI, P.O. SOLMARA, P.S.
AND DIST. NALBARI, ASSAM, PIN- 781338.

2: JYOTISH CH. DAS
S/O- SRI GANGADHAR DAS
R/O- VILL.- PATANI
P.O. AND P.S. HAJO
DIST. KAMRUP
ASSAM
PIN- 781102

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT, DISPUR,
GUWAHATI-6.

2:THE COMMISSIONER

DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI-37.

3:THE SECRETARY
GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GUWAHATI-6.

4:THE SECRETARY
GOVT. OF ASSAM

DEPARTMENT OF FINANCE
DISPUR
GUWAHATI-6.

5:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
BELTOLA
MAIDAMGAON
GUWAHATI-29

Advocate for the Petitioner : MR C GOSWAMI,

Advocate for the Respondent : SC, P AND R.D., SC, AG,SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

16.02.2026

Heard Mr. C. Goswami, learned counsel for the petitioners, also heard Mr. S. Dutta, learned Standing Counsel, P&RD, and Mr. P. Nayak, learned Standing Counsel, Finance Department.

This writ petition was filed by the learned counsel for the petitioners, being aggrieved by the impugned order dated 05.03.2025, passed by the Addl. Chief Secretary to the Govt. of Assam, Panchayat & Rural Development Department, whereby, although the two petitioners namely, Sri Dhiren Bharali and Sri Jyotish Ch. Das, were given notional promotion with effect from 14.11.2017, the said order stated that they would not be entitled to any Financial benefits as per the Hon'ble Gauhati High Court's order dated 05.03.2025.

These two petitioners had earlier approached this Court by filing WP(C) No. 279/2015 which came to be disposed of by judgment and order dated 15.05.2017, whereby the State Respondents were directed to examine the petitioners with the following directions:-

“Hence direction is issued to the State authorities to examine the petitioners claim for promotion to the cadre of Assistant Engineer, under Rule 11(4)(c) of the Panchayat Officers Rules. The authorities will verify whether the

petitioners have acquired the requisite qualification from competent Institution(s). The exercise in this regard is ordered to be completed expeditiously and preferably within a period of six months from today. It is ordered accordingly. However this order should not disturb the private respondents, who were directly recruited as Assistant Engineers, in the P&RD Department."

Subsequently, the two writ petitioners along with other similarly situated persons had approached this Court by filing WP(C) No. 5123/2020. This writ petition also came to be disposed of by a judgment and order dated 05.08.2024 passed in WP(C)/5123/2020. By the said writ petition the following direction was issued:-

“In view of the aforesaid discussions, this Court is of the considered opinion that interest of justice would be served and the equities would be balanced if a direction is issued to give notional benefits to the petitioners at least from the date of expiry of 6 months from the judgment dated 15.05.2017 passed in WP(C)/279/2015 as it was the time prescribed for considering and giving such promotions. This Court is fortified by the fact that the eligibility of the petitioners is not in doubt as the Department had itself granted them the promotion on 10.01.2020 to the post of Assistant Engineer. It is made clear that the benefits to be granted to the petitioners would be only notional and they would not be entitled any back wages. Further, under the peculiar facts and circumstances, the present order would be confined only to the petitioners as the earlier direction passed by this Court on 15.05.2017 in WP(C)/279/2015 was only pertaining to them and accordingly, the present order would not be a precedent for any other candidates.”

According to the understanding of the petitioners the directions contained in the order dated 05.08.2024 passed in WP(C) No. 5123/2020 was to be restricted to only two of the petitioners namely Sri Dhiren Bharali and Sri Jyotish Ch. Das. On that understanding a Review Petition was filed being Review Petition No. 180/2024. This Review Petition also came to be disposed of vide order dated 04.11.2024 with the following directions:-

“The order dated 05.08.2024 by which the writ petition was disposed of had taken into consideration the earlier direction passed by this Court on 15.05.2017 passed in WP(C)/279/2015 in which, there were only two numbers of petitioners. However, in the subsequent WP(C)/5123/2020, apart from those two petitioners, there were ten other petitioners. This Court had taken into consideration that the foundation of the case was based on the earlier direction passed by this Court vide judgment dated 15.05.2017 which

pertains to only two numbers of writ petitioners. In view of the aforesaid facts and circumstances, this Court had taken a conscious decision and accordingly, directed that the order dated 05.08.2024 would be confined only to those petitioners who had earlier approached this Court in WP(C)/279/2015.

In view of the aforesaid circumstances, this Court is of the opinion that no case for review is made out in the instant application. Even otherwise, the powers to be exercised by this Court under review jurisdiction is a circumscribed one wherein only under limited conditions, such powers are to be exercised. In the instant case, none of those conditions exist and therefore, the instant petition is dismissed."

The fact of the directions is that the benefit conferred by the judgment and order dated 05.08.2024 passed in WP(C) No. 5123/2020 was extended to all the writ petitioners therein. However, the fact remains that although the writ petitioners were granted notional promotion, it was held that they would not be entitled to back wages.

Vide impugned order dated 05.03.2025, although two of the writ petitioners granted the notional benefit in their promotion with effect from 14.11.2017. It was also held that it shall not be entitled to any financial benefit as was directed by the Hon'ble Gauhati High Court.

Perusal of the order passed by this coordinate bench reveal that by the order dated 05.08.2024 passed in WP(C) No. 5123/2020, the direction of the Court was to grant the petitioner's notional benefits for notional promotion and they would not be entitled to back wages. However, the impugned order appears to have interpreted this direction of the writ court by restraining the petitioner's from receiving any financial benefits.

This will resultantly affect the pensionary benefits which are being received by the petitioners as the increments and the scale of pay receivable by the writ petitioner in the notional promotion granted would not be made available. The direction not to be entitled for back wages would mean that the writ petitioner would not be appeal arrear salary etc. for the notional promotion which they were directed to be given effect too. However, restraining the writ petitioners from grant of the financial benefits, which includes the scale of pay and other increments would be contrary to the directions issued by the Court in the co-ordinate bench order dated 05.03.2025.

Accordingly, the respondents are now directed to release financial benefits

except back wages to the writ petitioner on account of their notional promotion.

Let this exercise be carried out expeditiously within a period of 90 days from the date of receipt of certificate copy of this order.

Accordingly, the writ petition stands dismissed of in terms of the above.

JUDGE

Comparing Assistant