

GAHC010099322023



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

Case No. : WP(C)/2644/2023

ASHISH KUMAR DEY
SON OF LATE TEJENDRA LAL DEY,
RESIDENT OF MILON NAGAR, BYE LANE NO. 4,
HOUSE NO. 44, LALGANESH,
GUWAHATI- 781034,
P.O.- ODALBAKRA, KAMRUP(M),
ASSAM.

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REPRESENTED BY ITS COMMISSIONER,
R.G. BARUAH ROAD, GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI- 5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD

GUWAHATI-5

Advocate for the Petitioner : MR. S BORA, MS J RAJKUMARI

Advocate for the Respondent : SC, A S H B,

Linked Case : WP(C)/4697/2024

PRABHAT CHOUDHARY
SON OF LATE MOHIDHAR CHOUDHURY

RESIDENT OF ABHOYPUR

P.S.- CHANGCHARI

P.O.- NORTH GUWAHATI

DISTRICT- KAMRUP(RURAL)

ASSAM.

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REPRESENTED BY ITS COMMISSIONER

R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

Linked Case : WP(C)/2642/2023

DINISH CHANDRA DAS
SON OF LATE SUNDAR DAS

RESIDENT OF NARINGI HOUSING COLONY

PO.- NARANGI
P.S. NOONMATI

DISTRICT- KAMRUP(M)
ASSAM.

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS.
REPRESENTED BY ITS COMMISSIONER

R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI- 5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD

GUWAHATI-5.

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS.

Linked Case : WP(C)/7437/2023

DILIP KUMAR NEOG
S/O LATE PARAMANANDA NEOG
R/O HOUSE NO. 10
JEUTI PATH
RUKMINIGAON
P.O.-KHANAPARA
GUWAHATI-22
DIST-KAMRUP (M)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS

REPRESENTED BY ITS COMMISSIONER
R.G. BARUAH ROAD
GUWAHATI-5

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5

Advocate for : MR. S BORA
Advocate for : SC
A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

Linked Case : WP(C)/7569/2023

MAINUL HAQUE ALI
SON OF LATE OWRAB ALI

RESIDENT OF HENGRABARI HOUSING COLONY

E.W.S. BUILDING NO. 9
UNIT NO. 9 AND 11

DISPUR
GUWAHATI-6

DISTRICT- KAMRUP(M)
ASSAM.

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS.
REPRESENTED BY ITS COMMISSIONER

R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD

GUWAHATI-5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS.

Linked Case : WP(C)/993/2025

ANIL KUMAR
S/O- LATE BHUMIDHAR KUMAR

R/O- NILACHAL HOUSING COLONY
F 6
LIG
BHETAPARA
P.S- HATIGAON
DIST- KAMRUP (M)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REP. BY ITS COMMISSIONER
RG BARUAH ROAD
GUWAHATI-05

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R G BARUAH ROAD
GUWAHATI-05

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R G BARUAH ROAD
GUWAHATI-05

Advocate for : MR. S BORA

Advocate for : SC

HOUSING BOARD appearing for THE ASSAM STATE HOUSING BOARD AND 2
ORS

Linked Case : WP(C)/47/2024

ATUL BORA
S/O- NANDESWAR BORA

R/O- HENGERABARI HOUSING COLONY

LIG BUILDING NO-7
UNIT 2
DISPUR
GUWAHATI-06
DIST- KAMRUP (M)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REP. BY ITS COMMISSIONER
R.G BARUAH ROAD
GUWAHATI-05

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD

R.G BARUAH ROAD
GUWAHATI-05

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD

R.G BARUAH ROAD
GUWAHATI-05

Advocate for : MR. S BORA
Advocate for : SC
A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

Linked Case : WP(C)/7341/2023

PRADIP HAZARIKA
SON OF LATE CHANDRA NATH HAZARIKA

RESIDENT OF HANGERABARI HOUSING COLONY

E.W.S. NO. 7
UNIT NO. 10 AND 11

DISPUR
GUWAHATI

DISTRICT- KAMRUP(M)
ASSAM.

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REPRESENTED BY ITS COMMISSIONER

R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G BARUAH ROAD
GUWAHATI- 5.

Advocate for : MR. S BORA
Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

Linked Case : WP(C)/1269/2024

MD. YASIN ALI
S/O- LATE SAYB ALI

R/O- SARAIGHAT HOUSING COMPLEX
BLOCK NO-K 18
HATIGAON
BHETAPARA
GUWAHATI-28
KAMRUP (M)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REP. BY ITS COMMISSIONER R.G BARUAH ROAD
GUWAHATI-05

2:THE CHAIRMAN

ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

3:THE COMMISSIONER

ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

Linked Case : WP(C)/7552/2023

DINESH SARMAH
SON OF LATE RAMAPATI DEV SARMAH

RESIDENT OF HENGRABARI HOUSING COMPLEX

LIG FLAT NO. 8
GUWAHATI-36

P.O. AND P.S. DISPUR

GUWAHATI-36

DISTRICT- KAMRUP(M)
ASSAM.

VERSUS

THE ASSAM HOUSING BOARD AND 3 ORS.
REPRESENTED BY ITS COMMISSIONER

R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

Advocate for : MR. S BORA
Advocate for : SC
A S H B appearing for THE ASSAM HOUSING BOARD AND 3 ORS.

Linked Case : WP(C)/2711/2023

DILIP KUMAR GOGOI
S/O- LATE KHAGENDRA NATH GOGOI
R/O- HOUSE NO. 22 SANKAR PATH
P.O. AND P.S. HATIGAON
GUWAHATI-28
DIST. KAMRUP(M)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS.
REPRESENTED BY ITS COMMISSIONER
R.G. BARUAH ROAD
GUWAHATI-5.

2:THE CHAIRMAN

ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5.

3:THE COMMISSIONER

ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD

GUWAHATI-5.

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS.

Linked Case : WP(C)/5563/2024

TRAILOKYA KUMAR BORA
SON OF LATE DHARMASWAR BORA
RESIDENT OF EWS 2/4
HANGERABARI HOUSING COMPANY
GUWAHATI-6
P.S. AND P.O. DISPUR
DISTRICT- KAMRUP (METRO)
ASSAM

VERSUS

THE ASSAM STATE HOUSING BOARD AND 2 ORS
REPRESENTED BY ITS COMMISSIONER
R.G. BARUAH ROAD
GUWAHATI-5

2:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5

3:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5

Advocate for : MR. S BORA

Advocate for : SC

A S H B appearing for THE ASSAM STATE HOUSING BOARD AND 2 ORS

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

06.01.2026

Heard Mr. S. Bora, learned counsel for the petitioners. Also heard Mr. T.R. Gogoi, learned Standing Counsel, A.S.H.B.

2. These writ petitions have been filed by the writ petitioners who were earlier employed under the Assam State Housing Board and upon attaining the age of superannuation, which is 60 years, they superannuated from their respective posts held under the Assam State Housing Board. It is the case projected by the petitioners that during the subsistence of their services under the Assam State Housing Board, the Government of Assam notified the Revision of Pay (RoP) Rules, 2017 on 17.03.2017, showing stage wise fixation of pay of its employees w.e.f. 01.04.2016. It is the claim of the petitioners that the respondent Board also adopted the RoP Rules, 2017 and necessary entries were made to that effect in the service rolls of the petitioners maintained by the Housing Board and thereby, the petitioners were qualified to receive the pay scales as indicated under the Assam Services (RoP) Rules 2017. However, these revised pay scales were never received by the petitioners from the date of its effect till the date they superannuated from service. In spite of representations filed before the Housing Board, the dues payable to the petitioners have not been released. Therefore, being aggrieved, the petitioners have approached this Court by filing the writ petitions.

3. The petitioners also contend that the amount required to be paid after implementation of ROP Rules, 2017 to the various employees is also reflected in the accounts maintained by the Housing Board. The petitioners, by way of their

affidavit in reply have placed a copy of the “budgeted year receipt and expenditure” for Financial Year 2025-2026. From the said extract, the learned counsel for the petitioners submits that there is a provision already made for “outstanding retirement dues after implementing RoP 2017” and an amount of Rs.13.53 crores has also been reflected in that regard. The learned counsel for the petitioners therefore, submits that the RoP Rules, 2017 having been accepted and adopted by the Housing Board and the provisions to that effect have also been made in their receipt and expenditure as reflected in the extracts of the receipt and expenditure for the Financial Year 2025-2026, it is therefore, submitted that the claim of the petitioners towards the outstanding enhanced dues receivable in terms of the RoP 2017 be directed to be released to the petitioners by the respondent authorities.

4. The respondents on the other hand have contested the case by filing their affidavits. From the counter affidavit it is pointed out by the learned counsel for the respondent that the Board is yet to adopt the implementation of the RoP 2017 as in terms of notification dated 17.01.2018. The Housing Board being a State Level Public Enterprise, they are required to satisfy the norms prescribed by the notification dated 17.01.2018 before the RoP 2017 can be accepted and adopted. It is submitted that the Housing Board does not satisfy the criteria specified in the notification dated 17.01.2018 and therefore, the claim of the petitioners cannot be entertained as the same is contrary to the notification dated 17.01.2018. It is submitted that since the Housing Board does not satisfy the criteria specified under the notification dated 17.01.2018, the claim of the petitioners cannot be entertained and revised pay under the RoP Rule, 2017 cannot be released to the petitioners unless they are specifically sanctioned by the appropriate department of Government.

5. The learned counsel for the parties have been heard and the pleadings available on record have been carefully perused. Although the averments made in the affidavit filed by the Commissioner of Assam State Housing Board reveal that the Assam Services RoP Rules, 2017 had not been implemented in the Assam State Housing Board and the amount of Rs. 6 crores which are kept in reserve for the construction of the office building in the Board's own land and as the total outstanding liabilities after implementing RoP Rule, 2017 would be Rs. 23 crores approximately and therefore, the fixed deposits available with the Board are not sufficient to cover the entire liabilities. However, during the course of the hearing, the learned Standing Counsel, Assam State Housing Board fairly submitted that no specific decision has been taken by the Board to either adopt or not to adopt the RoP Rules, 2017. The learned Standing Counsel submits that in view of the financial condition of the Board it is not feasible to accept the contentions of the petitioners.

6. A reference at this stage is necessary to be made to the relevant paragraphs of the notification dated 17.01.2018:

**“GOVERNMENT OF ASSAM
FINANCE (PAY RESEARCH UNIT) DEPARTMENT
Dispur ::::: Guwahati-6**

**ORDERS BY THE GOVERNOR
NOTIFICATION**

Dated Dispur the 17th January 2018

No.FPC.23/2016/17: *In exercise of the power conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is pleased to order that the individual State Level Public Enterprise's (SLPEs) may adopt the provisions regarding revision of pay/pay scales, allowances and payment of arrear pay as prescribed to State Govt. employees as per Assam Services (ROP) Rules, 2017 published in the extra ordinary issue of the Assam Gazette dated 17th March, 2017 under the Notification No.FPC1/2017/Pt./2, dated 17/03/2017, subject to the following condition.*

- (i) The Board of Directors of each SLPEs shall decide to adopt the provisions regarding revision of pay/pay scales, allowances and payment of arrear pay as per Assam Services (ROP) Rules, 2017 after examining the detailed financial involvement regarding pay*

revision. Pay revision is to be allowed with the approval of Administrative Department concerned only after the Board of Directors agree that the SLPE concerned has adequate financial resources to meet the expenditure for payment of the revised pay, revised allowances or the arrear pay.

The PSEs having Net profit for the last three consecutive years up to 2016-17 with positive Net Worth and those who are in a position to meet the additional financial burden for payment of salary on the revised pay because of implementation of pay revision as per Assam Services (ROP) Rules, 2017, from their current operational profit may be allowed to adopt the rules in the respective PSEs.

PSEs are to ensure that their Annual Accounts are adopted up to the year 2016-17 in their respective AGMs before allowing revision of pay.

(ii) The Administrative Department shall examine at its own level the proposal received from the SLPEs under its control for revision of pay, etc. along with the decision of the Board to ensure that the SLPE concerned has adequate financial resources to meet the expenditure for paying the revised pay, allowances or the arrear pay and thereafter allow the revision of the pay scale. No reference to Finance Department will be necessary.

(iii) Before allowing the pay revision by the Administrative Department, each of the SLPEs would be required to sign a Memorandum of Understanding (MoU) with the Administrative Department, indicating the exact number of posts and number of employees working against sanctioned posts. The said MoU should specifically provide that no fresh post shall be created by the SLPEs without prior approval of Finance Department. This is to ensure that provision of AFRBM would not be violated in any case. A standard format of MoU is being issued separately.

In so far as those SLPEs which have already allowed revision of pay scales, the Administrative Department may instruct those SLPEs also to immediately sign the MoU as mentioned above.

(iv) Public Enterprise Department will monitor that the accounts of these SLPEs are updated in a time bound manner within 9 months.

(v) The revised pay scales and other benefits to the Officers and employees of SLPEs shall be allowed as per Assam Services (ROP) Rules, 2017, subject to the condition that no financial assistance for the purpose will be given from the State Government.

Secretary to the Govt. of Assam
Finance (PRU) Department

Memo No. **No.FPC.23/2016/17- A**

Dated Dispur the 17th January 2018

Copy to:

1. The Accountant General (A&E), Assam Maidamgaon, Beltola, Guwahati-29.
2. P.P.S. to the Chief Minister, Assam, Dispur for kind appraisal of Hon'ble Chief Minister.
3. P.S to Minister, Finance Department for kind appraisal of Hon'ble Minister Finance.
4. Staff Officer to Chief Secretary, Assam, Dispur for kind information of Chief Secretary.
5. All Administrative Department.
6. All Heads of Department.
7. All Treasury Officer/Sub-Treasury Officers.
8. The Chairman/Managing Director/Chief Executive Officer/Commissioner.....

.....
9. The Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 with a request to publish the notification in the next issue of Assam Gazette and supply 50 (fifty) copies of the same to this Department.

10. Finance (e-GU) Department for uploading in the website.

By Order etc.

*Under Secretary to the Govt. of Assam
Finance (PRU) Department”*

7. Upon perusal of the notification dated 17.01.2018 it is reveal that in respect of State Level Public Enterprises regarding adoption of provisions for Revision of Pay/Pay Scales, allowances and payment of arrear pay as prescribed to the State Government employees as per Assam Services (RoP Rules, 2017), at clause 1, it is clearly provided that the Board of Directors of each of the SLPEs shall decide to adopt the provisions regarding the Revision of Pay/Pay Scales and allowances and payment of arrear as per Assam Services (RoP Rules, 2017). Pay revision is to be allowed with the approval of the Administrative Department concerned only after the Board of Directors agree that the SLPE concerned has adequate financial resources to meet the expenditure for fulfillment of revised allowances and arrear pay.

8. Therefore, it is clear from the said notification that the decision to adopt the RoP Rule, 2017 for grant of enhanced pay/pay scales or arrear pay is to be taken at the first instance by the Board of Directors of the SLPE, namely the Board of Directors of the Assam State Housing Board in the present proceedings. There is no dispute on fact that no such decision, either to adopt or not to adopt the RoP Rules have been undertaken by the Board of Directors. Although, the affidavit filed on behalf of the Assam State Housing Board by the Commissioner contains averments that the revision of pay rules and release of enhanced pay scales to the writ petitioners are not feasible in view of the

financial conditions of the Housing Board, however, there is no averment as to whether the Board of Directors had ever taken any decision in this regard. What is reserved for the Board of Directors of a State Level Public Enterprise cannot be permitted to be undertaken by any subordinate authority unless specific powers to that effect have been delegated to such authority.

9. The Board of Directors is the prescribed authority in respect of the Assam State Housing Board to undertake any policy decision. Since no such policy decision has yet been taken by the Board of Directors of the Assam State Housing Board, this Court is inclined to issue specific directions to the Assam State Housing Board to take all steps to place the matter regarding the consideration or the adoption of the Revision of Pay Rules of 2017 and all other connected matters before the Board of Directors at the earliest. The Board of Directors shall thereafter, take a conscious decision in this matter after examining all particulars as is required under the law, including the hardships faced by the erstwhile employees and the question of maintaining the parity of benefits between the employees of the Assam State Housing Board *vis-à-vis* the other State Government employees. Let this exercise be completed within a period of 60 days from the date of receipt of a certified copy of this order. Needless to say, any such decision that is taken by the Board, the same shall be communicated to the petitioners.

10. With the above directions, the writ petitions stand allowed in part and disposed of.

JUDGE

Comparing Assistant