

GAHC010186992023



2026:GAU-AS:5435

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

Case No. : WP(C)/4965/2023

MONOWAR HUSSAIN
SON OF LATE BAHIAH ULLAH, UNARMED SECURITY GUARD, ERSTWHILE
WIMCO LTD. LTD., DHUBRI, NOW MANAGED BY ITC LTD., RESIDENT OF
A.M.CO.ROAD, P.S. AND DISTRICT- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, JANATA BHAWAN, DISPUR, GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER
DHUBRI
DISTRICT DHUBRI
PINCODE- 783301
ASSAM

3:THE CERTIFICATE OFFICER
OFFICE OF THE DEPUTY COMMISSIONER
DHUBRI
PINCODE- 783301

4:THE ASSISTANT LABOUR COMMISSIONER CUM AUTHORITY
UNDER THE PAYMENT OF WAGES ACT
1936
DHUBRI
PINCODE- 78330

5:ITC LTD.
BEING REPRESENTED BY ITS MANAGING DIRECTOR
HAVING ITS REGISTERED OFFICE AT VIRGINA HOUSE

37
J.L.NEHRU ROAD
KOLKATA- 700071

6:SRI AMITENDRA MOHAN DUTTA
MANAGER OF ERSTWHILE WIMCO LTD. LTD.
DHUBRI
NOW MANAGED BY ITC LTD.
AM CO. ROAD
DHUBRI
P.O. ASSAM MATCH CO.ROAD
DHUBRI
ASSA

Linked Case : WP(C)/5398/2023

ITC LTD
A PUBLIC LIMITED COMPANY HAVING ITS REGISTERED OFFICE AT
VIRGINIA HOUSE
37 JAWAHARLAL NEHRU ROAD
KOLKATA-700071
INDIA
REPRESENTED BY ITS SENIOR FINANCE MANAGER (EAST)
MS. DEBOLINA MOOKERJEE
R/O 11A
GOKUL BARAT STREET
KOLKATA-700012
DIST- KOLKATA
STATE-WEST BENGAL

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
LABOUR WELFARE DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE CERTIFICATE OFFICER
OFFICE OF THE DEPUTY COMMISSIONER
DHUBRI

3:THE ASSISTANT LABOUR COMMISSIONER
-CUM-AUTHORITY UNDER THE PAYMENT OF WAGES ACT
DHUBRI
PIN-783301

4:MONOWAR HUSSAIN
S/O LATE BAHIAH ULLAH
R/O A.M. CO. ROAD
PS AND DIST- DHUBRI
ASSAM

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s)
[in WP(C) No.4965/2023] : Mr. K. Mohammed, Advocate

For the Petitioner(s)
[in WP(C) No.5398/2023] : Mr. D. Khan, Advocate

For the Respondent(s) : Ms. U. Das,
Addl. Sr. Govt. Advocate

For the Respondent(s)
[in WP(C) No.4965/2023] : Mr. D. Khan, Advocate,

For the Respondent(s)
[in WP(C) No.5398/2023] : Mr. K. Mohammed, Advocate

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 20.04.2026

Whether the pronouncement is of the
Operative part of the judgment? : NA

Whether the full judgment has been
Pronounced? : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. K. Mohammed, the learned counsel appearing on
behalf of the petitioner in WP(C) No.4965/2023 and Mr. D. Khan,

the learned counsel appearing on behalf of the petitioner in WP(C) No.5398/2023. Ms. U. Das, the learned Additional Senior Government Advocate appears on behalf of the State of Assam.

2. This Court had passed a detailed order on 09.12.2025 whereby the primary issue which was before this Court in both the writ petitions has been adequately dealt with. For the sake of clarity, this Court would like to reiterate that the issue involved in WP(C) No.4965/2023 was relating to the non-compliance to the directions passed by the Assistant Labour Commissioner in its order dated 15.07.2022. On the other hand, it was the case of the petitioner in WP(C) No.5398/2023 that the impugned order passed by the Assistant Labour Commissioner dated 15.07.2022 was without authority and jurisdiction. The opinion so rendered by this Court in respect to the legality and validity of the order dated 15.07.2022 passed by the Assistant Labour Commissioner in the paragraph Nos.13 to 19 of the order dated 09.12.2025 being relevant are reproduced herein under:-

“13. Having heard the learned counsels appearing on behalf of the parties, the point for consideration which arises in both the writ petitions is as to whether the Assistant Labour Commissioner-cum-Authority under the Act of 1936, Dhubri was justified in passing the impugned order dated 15.07.2022.

14. Upon hearing the learning counsels appearing on behalf of the

parties, there is no issue as to the quantum payable on account of the delayed wages with effect from 01.01.2016 to 31.05.2022. What is being assailed in the order dated 15.07.2022 is the imposition of penalty of 10 times of the delayed wages to the tune of Rs.82,95,330/-. In that regard, this Court finds it pertinent to take note of Section 15(3) of the Act of 1936, which being relevant is reproduced hereinunder:

“15(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the

date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any bona fide reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a bona fide error or bona fide dispute as to the amount payable to the employed person; or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(c) the failure of the employed person to apply for or accept payment.”

15. A perusal of the above-quoted provision reveals that the authority as notified by the appropriate government in terms with Section 15(1) of the Act of 1936, have been authorized to entertain application filed under Sub-section (2) of Section 15 of the Act of 1936 and after giving a hearing to the employer or other person responsible for payment of wages under Section 3 of the Act of 1936, had been empowered to pass the following orders:

(i). Refund to the employed person of the amount deducted or

direct payment of the delayed wages.

(ii). Payment of compensation is also segregated into two parts: One pertains to deduction of the amount and the other pertains to payment of delayed wages.

In the case of deduction of the amount, compensation can be directed to be paid not exceeding 10 times the amount deducted, and in the case of delayed payment of wages, the maximum compensation that can be awarded is Rs.3000/- and the minimum is Rs.1500/-.

16. It is further stipulated in Sub-section (3) of Section 15 of the Act of 1936 that the adjudication so carried out is without prejudice to any other penalty to which the employer or other person is liable under the Act.

17. In the backdrop of the above, if this Court now takes up the order dated 15.07.2022, it would be seen that on account of delayed payment of wages with effect from 01.01.2016 to 31.05.2022, an amount of Rs.8,29,533/- was determined. In addition to that compensation has been directed to be paid to the tune of Rs.3000/-.

18. It, however, surprises this Court as to how the penalty to the tune of ten times of the delayed earned wages could have been imposed by the Assistant Labour Commissioner-cum-Authority under the Act of 1936, Dhubri, taking into account that the imposition of penalty is stipulated under Section 20 of the Act of 1936, and the power to try offenses in respect to such penalty is conferred upon the Court and not the Assistant Labour Commissioner-cum-Authority

under the Act of 1936.

*19. Considering the above, this Court, therefore, is of the opinion that the imposition of penalty by the respondent No.3 in the impugned order dated 15.07.2022 was contrary to Section 15(3) of the Act of 1936. It is, therefore, the further opinion of this Court that as the instant matter pertains to wrong application of the provisions of law and in view of the judgment of the Supreme Court in the case of **Godrej Sara Lee** (supra), it would not be proper on the part of this Court to remit the matter to the statutory authorities. Accordingly, this Court, therefore, passes the following directions:*

(1). The petitioner in WP(C)No.5398/2023 is directed to deposit an amount of Rs.8,29,533/- + Rs.3000/- = Rs.8,32,533/- before the Registry of this Court on or before 19.01.2026.

(2). Upon such deposit being made, the petitioner in WP(C)No.4965/2023 is given the liberty to file an application before the Registry for release of the said amount and the Registry upon carrying out the necessary verifications shall disburse the said amount to the bank account of the petitioner in WP(C)No.4965/2023."

3. A perusal of the above quoted paragraphs would clearly show that this Court held that the impugned order dated 15.07.2022 passed by the Assistant Labour Commissioner was without jurisdiction in so far as imposition of penalty in terms with Section 15(3) of the Payment of Wages Act, 1936 (for short,

'the Act of 1936') and it was the opinion of this Court that the Assistant Labour Commissioner by passing the impugned order dated 15.07.2022 had wrongly applied the provisions of Section 15 of the Act of 1936. It is under such circumstances, this Court directed the petitioner in WP(C) No.5398/2023 to deposit the amount of Rs.8,32,533/- thereby modifying the impugned order dated 15.07.2022. It has been brought to the notice of this Court that the petitioner in WP(C) No.5398/2023 has duly deposited the said amount before the Registry of this Court and the petitioner in WP(C) No.4965/2023 has also received the said amount.

4. Considering the observations made in the order dated 09.12.2025, it is therefore the opinion of this Court that nothing further remains to be adjudicated in the instant writ petitions, and accordingly, both the writ petitions stand closed with an observation that in view of the instant order and the order dated 09.12.2025, the impugned order dated 15.07.2022 passed by the Assistant Labour Commissioner stands modified.

5. Both the writ petitions accordingly stand disposed.

JUDGE