

GAHC010236942015



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

**Case No. : WP(C)/2886/2015**

PRADIP CHANDRA BORA and 137 ORS  
S/O BHOG RAM BORA, R/O NATUNGAON, P.O. and PS. JAGIROAD, DIST-  
MORIGAON, ASSAM, PIN-782410

VERSUS

THE STATE OF ASSAM and 2 ORS  
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, INDUSTRIES  
AND COMMERCE DEPTT., DISPUR, GHY-6

2:THE PRINCIPAL SECRETARY  
TO THE GOVERNMENT OF ASSAM  
PUBLIC ENTERPRISE DEPARTMENT  
DISPUR  
GUWAHATI-6

3:THE ASSAM POLYTEX LIMITED

REPRESENTED BY ITS MANAGING DIRECTOR  
JAGIROAD  
ASSAM

**Advocate for the Petitioner : MS.B DAS**

**Advocate for the Respondent : GA, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 04.01.2023**

Heard Mr. A. Dasgupta, the learned senior counsel assisted by Ms. B. Das for the petitioners as well as Mr. A. Kalita, the learned standing counsel appearing on behalf of the Industries and Commerce Department and Mr. P. Nayak, the learned standing counsel, Finance Department appearing for the respondent No. 4.

Pursuant to the direction dated 02/01/2023, the learned standing counsel for the Industries and Commerce Department submitted that although on 04/04/2001 an agreement was entered into between the Government of Assam and the Assam Yarn Suppliers, whereby 100% share of the Government Company was transferred to the Assam Yarn Suppliers, but from his instructions as of now the mill is not operational. He submits that he does not have the instructions as to whether the mill re-started after the transfer of the undertaking or had re-started and thereafter stopped becoming in-operational. He submits that he would take necessary instructions in that regard.

Mr. P. Nayak, the learned standing counsel appearing on behalf of the Finance Department submits that on account of the speaking order passed on 16/10/2014 by the Additional Chief Secretary to the Government of Assam, the Industries and Commerce Department have therefore not moved any proposal to the Finance Department for payment of retirement benefits like VRS in respect to the petitioners.

On the other hand, Mr. A. Dasgupta, the learned senior counsel for the

petitioners submitted that the mill in question have been in-operational since the year 1993. Thereafter though the ownership of the mill was transferred to the private entity i.e. Assam Yarn Suppliers but the mill did not become operational and as such, the agreement dated 04/04/2001 in so far as the petitioners are concerned have not been put to effect inasmuch as they have not been employed in any fresh terms and conditions. He therefore, submitted that Section 25 FF of the Industrial Disputes Act, 1947 shall apply in the instant case and accordingly the petitioners ought to be paid the retrenchment compensation in terms with Section 25 F of the Industrial Disputes Act, 1947.

At this stage, it may also be relevant to take note of the contentions of the learned standing counsel appearing on behalf of the Industries and Commerce Department, who submits that there is no prayer in the writ petition seeking benefits under Section 25 FF of the Industrial Disputes Act, 1947.

Taking into account that the matter pertains to non-payment of the entitlement of the petitioners since 2001, this Court is of the opinion, that the said relief, if otherwise entitled to can very well be granted, if in law as well as on the facts the petitioners are entitled to by moulding the reliefs.

Mr. A. Kalita, the learned standing counsel for the Industries and Commerce Department therefore, submits that he would like to go through the provisions of Section 25 FF of the Industrial Disputes Act, 1947 and shall make appropriate submission as to whether in the facts of the instant case, the petitioners would be entitled to the benefits under the said Section.

Let the matter be listed on 18<sup>th</sup> of January, 2023.

A copy of the agreement so submitted by Mr. A. Kalita, the learned standing counsel for the Industries and Commerce Department is kept on record

and marked with the letter X.

**JUDGE**

**Comparing Assistant**