

GAHC010237552024



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

Case No. : WP(C)/5911/2024

KIRAN SAHARIAH
W/O- HARI KAKATI,
R/O- BARBARI, H.NO-37, DEHAL ARNAM PATH,
P.O- HENGRABARI, GUWAHATI-36, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM,
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR, JANATA BHAWAN, GUWAHATI-6.

2:THE DIRECTOR OF HEALTH SERVICES
HENGRABARI
KAMRUP (M)
GUWAHATI-36

3:THE JOINT SECRETARY
TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
JANATA BHAWAN
GUWAHATI-6.

4:THE ACCOUNTANT GENERAL
BELTOLA
MAIDAMGAON
GUWAHATI- 29
KAMRUP (M)
ASSAM

5:THE SENIOR ACCOUNTS OFFICER

O/O THE PR ACCOUNTANT GENERAL (A AND E)

BELTOLA
MAIDAMGAON
GUWAHATI- 29
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. P K MUNIR, MR. L Deka, MR. CHARAN DEKA, MR. A. GAYAN

Advocate for the Respondent : SC, HEALTH AND F W, SC, AG (A AND E)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

04.06.2026

Heard Mr. C. Deka, learned counsel for the petitioner. Also heard Mr. D.P. Borah, learned Standing Counsel, Health Department; and Ms. Tinslung, learned counsel appearing on behalf of Mr. R.K. Talukdar, learned Standing Counsel, Accountant General.

2. This writ petitioner has been filed by the petitioner under Article 226 of the Constitution of India who is serving under Directorate of Health Services (Family Welfare), Assam. It is projected that the petitioner has been deprived of benefit of the Revision of Pay Rules, 1990 (ROP Rules, 1990 for short), which was given to other Government Departments. The case of the petitioner is that their pay is required to be re-fixed on the ground that the petitioners are being paid lesser pay and emoluments than what they were receiving earlier under the pre-revised scale of pay.

3. It is submitted by the learned counsel for the petitioner that the case of the petitioner is squarely covered by judgment and order dated 18.11.2002 passed

by this Court in *Civil Rule No. 6567/1998 (Jibeswar Das & Ors. Vs. The State of Assam & Ors.)* and judgment and order dated 16.11.2012 passed by this Court in *WP(C) 1806/2009 (Bipul Chandra Das & Ors. Vs. The State of Assam and Ors.)* and connected matters.

4. The learned Standing Counsel for the Health Department submits that the excess drawal was not due to any misrepresentation or fraud on the part of the petitioner but resulted from an erroneous pay fixation. The matter has already been referred to the competent authority for waiver of the excess amount, and necessary steps have been taken for processing the petitioner's pension case.

5. In view of above, the Court is of the considered opinion that in terms of hereinbefore referred judgment and order dated 16.11.2012 passed in WP(C) No.1806/2009 and other connected matters, the issue regarding fixation of pay is required to be revisited by respondent no.2. It is provided that while considering the case of the petitioner, the respondent no.2 would be guided by hereinbefore referred judgment and order dated 16.11.2012 passed in Civil Rule No. 6567/1998 and WP(C) 1806/2009.

6. The entire exercise shall be carried out within a period of 2(two) months from the date of receipt of a certified copy of this order along with a copy of (i) the writ petition, (2) copy of the affidavit-in-opposition filed by respondent no.2 with all enclosures.

7. Accordingly, this writ petition stands disposed of in the manner as indicated above.

JUDGE

Comparing Assistant