

GAHC010245312023



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

Case No. : WP(C)/6355/2023

KUMAR UTPAL BORAH AND ANR
SON OF LATE ABANI KANTA BORAH,
RESIDENT OF VILLAGE- BAMGAON (B.G. ROAD),
P.O. AND P.S.- BISWANATH CHARIALI,
DISTRICT- BISWANATH, ASSAM,
PIN- 784176.

2: PRASANTA BORAH
SON OF LATE ABANI KANTA BORAH

RESIDENT OF VILLAGE- BAMGAON (B.G. ROAD)

P.O. AND P.S.- BISWANATH CHARIALI

DISTRICT- BISWANATH
ASSAM

PIN- 784176

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
VETERINARY DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI- 781029.

3:THE DIRECTOR

ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT
ASSAM
GUWAHATI- 781003.

4:THE SUB-DIVISIONAL ANIMAL HUSBANDRY AND VETERINARY
OFFICER

BISWANATH CHARIALI

BISWANATH
ASSAM

Advocate for the Petitioner : MR. D CHAKRABARTY, MS D.CHAKRABARTY

Advocate for the Respondent : GA, ASSAM, MS. M M KOTOKY, SC, VETERINARY
DEPARTMENT (R-1,R-3,R-4),MS J DAS,SC, AG

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

09.06.2025

Heard Mr. D Chakraborty, learned counsel for the petitioners. Also heard Ms. MM Katoky, learned Standing Counsel, Veterinary Department and Mr. B Sarma, learned Standing Counsel, Accountant General (A&E).

By filing this petition the petitioners, who are 2 (two) brothers, are claiming the arrear salaries and other benefits due to their unmarried brother late Dr. Kumar Mohini Mohan Borah, who was working as an Assistant Surgeon at State Veterinary Dispensary, Bihamari at Bedati under the Sub-Divisional A.H. & Veterinary Office, Biswanath Chariali. The petitioners claim that they are the

legal heirs of late Dr. Kumar Mohini Mohan Borah and as their mother, late Sadhumani Borah has passed away and in the absence of any other specific claimants, they assert that they are entitled to granted the arrear salary and other benefits which form part of the estate of their late elder brother, who died intestate. Learned counsel for the petitioners fairly submits that the petitioners are not entitled to the family pension under the Assam Service Pension Rules, 1969, however, the arrear salary and other dues are, therefore, receivable by the petitioners. It is submitted that in paragraph-3 of the writ petition there is an averment that the name of their third brother, namely, Sri Hemanta Borah, also appeared in the *Next of Kin Certificate*. However, the said brother is not before this Court as a petitioner and also no *NOC* has been enclosed in the writ petition.

Under such circumstances, learned counsel for the petitioners submits that he would like to complete his instructions in this aspect and prays for 4 (four) weeks time to complete his instructions.

Ms. MM Katoky, learned Standing Counsel, Veterinary Department submits that affidavit-in-opposition has been filed on behalf of the Department.

Learned counsel for the petitioners may file affidavit-in-reply to the affidavit-in-opposition filed on behalf of the Department, if so advised.

List the matter after 4 (four) weeks.

JUDGE

Comparing Assistant