

GAHC010259832024



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

Case No. : WP(C)/6594/2024

ASSAM CHAH KARMACHARI SANGHA
A REGISTERED TRADE UNION
UNDER THE TRADE UNION ACT, 1926
HAVING ITS REGISTERED OFFICE
AT BIJOY BHAWAN, PST BOX NO. 13,
DIBRUGARH, ASSAM,

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-06

2:THE ADDL. CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM
LABOUR AND WELFARE DEPARTMENT
DISPUR
GUWAHATI-06

For the petitioner : Mr. S. Chakraborty, Advocate

For the respondents : Mr. D. Saikia,
Advocate General, Assam
Mr. G.J. Goswami, Advocate

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

03-06-2026

(Ashutosh Kumar, C.J.)

Assam Chah Karmachari Sangha, a registered Trade Union under the Trade Union Act, 1926 representing the workers mainly in the tea gardens in Assam, has come up before this Court challenging a notification dated 12.11.2024 issued by the Labour Welfare Department, Government of Assam.

The Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955 was enacted to provide social security benefits, particularly, Provident Fund and Pension to workers employed in the tea gardens and related establishments in the State of Assam. The Act defines "Employee" and mandates the framing of a scheme for compulsory provident fund contributions. Initially, the definition of "employee" had a salary ceiling which was increased to Rs.15,000/- per month from 2016. Notwithstanding this, most of the tea

gardens continued contributing provident fund on actual wages without strictly enforcing this ceiling. Some tea gardens tried to limit contributions after 2016 to align with the limit, but it fell in litigation.

With this background, the Government of Assam amended the Act in the year 2023 and removed the salary ceiling entirely from the definition of “employee”. This meant all workers irrespective of their salary, would be covered under the Act and would be entitled to provident fund benefits on their full wages.

Despite this amendment in the year 2023, the impugned notification, referred to above, which amends the Assam Tea Plantation Provident Fund and Pension Fund Scheme and Deposit Linked Insurance Fund Scheme, 1968 scheme, has been issued.

By way of this notification, a provision has been inserted that even if an employee's monthly salary exceeds Rs.15,000/-, the employer's contribution to the provident fund would be calculated only on Rs.15,000/-.

The petitioner has urged before this Court that this notification effectively re-imposes a salary ceiling, which had been removed by the competent legislature way-back in the year 2023. The notification defeats the purpose of 2023 amendment and, in fact, it is in contravention of the parent Act.

The question before us, therefore, is that whether a sub-ordinate legislation by way of a notification bringing amendment in the scheme under the Act can override the provision of the parent Act.

We request the learned Advocate General, Assam to assist this Court in this matter.

Let this matter come up for consideration on **21.08.2026**.

In the meanwhile, *interim* order, passed earlier shall continue.

JUDGE

CHIEF JUSTICE

Comparing Assistant