

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

1.THE STATE OF ASSAM, 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-0

For the Petitioner(s) : Mr. K.N. Choudhury, Senior Advocate assisted by Mr. S.
Chakraborty, Advocate.

For the Respondent(s) : Mr. R.K. Borah, Additional Senior Government Advocate,
Assam.

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

20.02.2025

(Vijay Bishnoi, CJ)

By this writ petition, the petitioner Union seeks to question the validity of the proviso to Clause 22(c) of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, 1968 (hereinafter referred to as the "Scheme of 1968"), introduced vide Notification dated 12.11.2024.

It is contended by the learned senior counsel appearing for the petitioner Union that the said proviso is in direct conflict with the provisions of Section 3(3) of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Act, 1955 (hereinafter to be referred as the "Act of 1955") which provides for the rate of the contribution payable by the employer should be 12% of the total wages of the employee. It is contended that Section 2(h) of the Act of 1955 defines the term "wages" and specifies that the total amount which is capable of being expressed in terms of money, which is payable to an employee are wages.

Learned senior counsel has further submitted that the amended proviso is also in violation of Section 2(d) of the Act of 1955.

Reply to the writ petition is filed on behalf of the respondents. However, the specific challenge to the newly added proviso in terms of Section 3(3) of the Act of 1955 has not been addressed.

Mr. R.K. Borah, learned Additional Senior Government Advocate appearing for the respondents prays for some time to clarify the said position.

Time prayed for is granted.

However, in the meantime, it is directed that till further orders, the benefit of provident fund in respect of the employers' contribution will remain available to the members of the petitioner Union as was available to them prior to introduction of the proviso to clause 22(c) of the Scheme of 1968 vide Notification dated 12.11.2024.

List on 19.03.2025.

JUDGE

CHIEF JUSTICE

Comparing Assistant