

GAHC010274382024



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

**Case No. : WA/28/2025**

HITESH DEKA AND 4 ORS  
S/O. JOY CH. DEKA, R/O. DISPUR, GUWAHATI-06, DIST. KAMRUP (M),  
ASSAM, PIN-781006.

2: BHUPEN BARUAH  
S/O. LT. CHANDRA KR. BARUAH  
R/O. NO.2 BANK COLONY  
NORTH HAIBORGAON  
P.O. HAIBORGAON  
DIST. NAGAON  
ASSAM  
PIN-782002.

3: BHASKAR JYOTI BARUAH  
  
S/O. LT. NARESWAR BARUAH  
R/O. MADHUPUR  
WORD NO.28  
DIST. BISWANATH  
ASSAM  
PIN-784176.

4: MOUSUMI KAKATI  
W/O. MR. KHAGESH DEKA  
VILL. KETEKIBARI  
P.O. TEZPUR  
DIST. SONITPUR  
ASSAM  
PIN-784001.

5: JADAB CH. BARMAN  
S/O. LT. JATINDRA MOHAN BARMAN  
R/O. B.R. DEKA PATH  
JALUKBARI

GUWAHATI-14  
DIST. KAMRUP (M)  
ASSAM  
PIN-781013

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF  
PANCHAYAT AND RURAL DEVELOPMENT, DISPUR, GUWAHATI-06.

2:THE COMMISSIONER

DEPTT. OF PANCHAYAT AND RURAL DEVELOPMENT  
ASSAM  
PANJABARI  
GUWAHATI-37.

3:THE SECRETARY

GOVT. OF ASSAM  
PANCHAYAT AND RURAL DEVELOPMENT  
DISPUR  
GUWAHATI-06.

4:THE SECRETARY

GOVT. OF ASSAM  
DEPTT. OF FINANCE  
DISPUR  
GUWAHATI-06.

5:THE ACCOUNTANT GENERAL (A AND E)

ASSAM  
BELTOLA  
MAIDAMGAON  
GUWAHATI-29.

6:DHIREN BHARALI  
S/O. SRI DHANO RAM BHARALI  
VILL. KAIHATI  
P.O. SOLMARA  
PIN-781338  
DIST. NALBARI  
ASSAM.

7:JYOTISH CH. DAS  
S/O. SRI GANGADHAR DAS  
VILL. PATANI  
P.O. HAJO  
DIST. KAMRUP  
ASSAM  
PIN-781102

For the appellants : Mr. K.N. Choudhury, Sr. Advocate  
Mr. C. Goswami, Advocate  
Mr. T. Kashyap, Advocate

For the respondents : Mr. R. Borpujari,  
S.C., Finance Deptt.

– B E F O R E –

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

**24-03-2026**

***(Ashutosh Kumar, C.J.)***

We have heard Mr. K.N. Choudhury, learned Senior Advocate for the appellants and Mr. R. Borpujari, learned Standing Counsel, Finance for the respondent No.4.

The appellants were initially appointed as Junior Engineers in the Department of Panchayat and Rural Development, Assam. Over a period of time, they obtained the associate membership in Civil Engineering, which is commonly referred to as AMICE(I) and is considered to be equivalent to Civil Engineering degree. Based on this qualification,

the appellants sought promotion to the post of Assistant Engineer under the service rules prevailing at that time, namely, Rule 11(4)(C) of the Assam Panchayat and Rural Development Officers (Technical) Service Rules, 2015 (hereinafter to be referred as "2015 Rules"). When their demands were not met despite the appellants meeting the eligibility criteria, two of them, who are not appellant herein, filed writ petition before this Court vide WP(C) No.279/2015 seeking promotion to the post of Assistant Engineer on the basis of the degree obtained.

A Single Bench of this Court, vide judgment dated 15.05.2017, directed the State respondents to examine the claim of the petitioners for promotion to the post of Assistant Engineer under the above-mentioned provision of the 2015 Rules. Later, after the filing of a contempt petition by the writ petitioners, they were promoted vide order dated 10.01.2020.

Thereafter, some of the promoted Assistant Engineers, including the earlier two writ petitioners, filed a writ petition vide WP(C) 5123/2020 claiming retrospective benefits under Rule 11(4)(C) of the 2015 Rules. Their contention was that either they should be promoted with effect from the date of the judgment in WP(C) No.279/2015, or within six months of that date.

This Court, after hearing the parties and taking into account the interest of justice and equity, directed for granting notional benefits to those applicants with effect from a date after six months of the date of judgment passed in WP(C) No.279/2015 i.e. from 15.11.2017.

However, while doing so, this Court had clarified that the benefits granted to those applicants would be notional only, meaning thereby

that they would not be entitled to any back wages and that the order would apply only to the petitioners of the earlier writ petition, i.e. WP(C) 279/2015 as the order was *in personem*.

The appellants herein, similarly situated to the writ petitioners, about which reference has been made in the preceding paragraph, sought similar benefits, i.e. for notional promotion from 15.11.2017 primarily on the ground of parity. This prayer was made in the review petition (Review Pet. No.180/2024), which prayer was not acceded to on the ground that the original order was only with respect to a limited number of applicants, whereby it was made clear that such benefits would accrue to only the applicants.

Mr. Choudhury, learned Senior Advocate for the appellants has questioned the denial of parity by the learned Review Court.

This Court is presently and tentatively of the view that such a prayer ought not to have been made in a review petition. It could have been either seeking modification of the judgment, or the appellants ought to have preferred a fresh application seeking parity with respect to grant of notional benefits with effect from 15.11.2017.

Be that as it may, considering the fact that with one stroke of pen, the appellants along with others were promoted to the higher post of Assistant Engineer on the strength of Rule 11(4)(C) of 2015 Rules, there could not be any distinction between some of them and the appellants, to be given notional promotion from that particular date and denying the same benefits to the appellants.

Mr. Borpujari, learned Standing Counsel, Finance seeks some time to

take instructions in the matter and get back to this Court by the next date.

Re-notify on **23.04.2026**.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**