



GAHC010205312018

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

**Case No. : WP(C)/6433/2018**

ABDUL LATIF AND 11 ORS.

S/O- LATE LALMUDDIN, VILL- LENGTRIBARI, P.O- SAHAVIAGAON, DIST-  
MORIGAON, ASSAM, PIN- 782105

2: ROJOT MEDHI

S/O- LATE BINARAM MEDHI

VILL- BOGHARA

P.O- SAHAVIAGAON

DIST- MORIGAON

ASSAM

PIN- 782105

3: RAM KISHOR PROSHAD

S/O- LATE GOPI PROHAD

VILL- CHENIMARI

P.O- DOIYANG BELGURI

DIST- MORIGAON

ASSAM

PIN- 782410

4: GHANAKANTA DEKA

S/O- LATE TARUN DEKA

VILL- ULUBARI

P.O- BOGORA

DIST- MORIGAON

ASSAM

PIN- 782105

5: SONMONI PATOR

S/O- LATE NOREN PATOR

VILL- TITATOLA

P.O- BORIBONDA

DIST- MORIGAON

ASSAM



PIN- 782127

6: AFIR UDDIN  
S/O- LATE SOYAB ALI  
VILL- CHITALMARI PATHAR  
P.O- DOLOIGAON  
DIST- MORIGAON  
ASSAM  
PIN- 782126

7: SHOHIDUL ISLAM  
S/O- LALMIAH  
VILL- CHITALMARI PATHAR  
P.O- DOLOIGAON  
DIST- MORIGAON  
ASSAM  
PIN- 782126

8: KEMKANTA BORO  
S/O- LATE GORIA BORO  
VILL- GOBORATUP  
P.O- BONGALPARA  
DIST- MORIGAON  
ASSAM  
PIN- 782105

9: KUSHESWAR BORDOLOI  
S/O- LATE BIBOHAN BORDOLOI  
VILL- TIKHABORI  
P.O- GHOGUA  
DIST- MORIGAON  
ASSAM  
PIN- 782105

10: HOBIBUR RAHMAN  
S/O- YAKUB ALI  
VILL AND P.O- SHOGUNBAHI  
DIST- MORIGAON  
ASSAM  
PIN- 782126

11: MONTIRAM BOROMHELA  
S/O- LATE FALU BOROMHELA  
VILL- BORBOTI  
P.O- BORBOTI  
DIST- MORIGAON  
ASSAM  
PIN- 782124



12: GOLJAR HUSSAIN  
S/O- LATE HAJRAT ALI  
VILL- DALIPARA  
P.O- LOCHONABARI  
DIST- MORIGAON  
ASSAM  
PIN- 78210

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM, REVENUE  
(R AND R) AND DISASTER MANAGEMENT DEPTT, ASSAM, DISPUR,  
GUWAHATI- 6

2:THE COMMISSIONER  
MIDDLE ASSAM DIVISION  
TEZPUR  
ASSAM  
PIN- 784001

3:THE DIRECTOR OF LAND RECORDS AND SURVEYS  
ASSAM  
RUPNAGAR  
GHY- 32

4:THE DEPUTY COMMISSIONER  
MORIGAON  
ASSAM  
DIST- MORIGAON  
ASSAM  
PIN- 78210

**Advocate for the Petitioner : MR. B RAHMAN**

**Advocate for the Respondent : SC, REVENUE**

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**Date of hearing : 26.05.2023.**

Date of judgment : **26.05.2023.**

### **JUDGMENT & ORDER (Oral)**

Heard Mr. P. K. R. Choudhury, learned counsel assisted by Mr. B. Rahman, learned counsel appearing for the writ petitioners. Also heard Mr. J. Handique, learned Standing Counsel, Revenue & Disaster Management Department, Assam appearing for the respondent Nos.1 and 3 and Mr. R. Dhar, learned Government Advocate, Assam appearing for the respondent Nos.2 and 4.

2. The factual background of this case, in a nutshell, is that the 12 writ petitioners were appointed as Gaonburahs under the Morigaon district. According to the petitioners, they have been continuously serving as Gaonburahs since the time of their appointment but have not been paid their due salary. The dates of appointment of the petitioners as well as the date since when their salary has been pending as per projection made in the writ petition, is given in tabular form hereunder :-

Sl. No.	Name of Gaonburah	Date of appointment	Salary pending since
1.	Md. Abdul Latif	18-11-1992	01-02-2008
2.	Sri Rojot Medhi	06.08.2005	01-02-2008
3.	Ram Kishor Prashad	15-07-2005	01-02-2008
4.	Ghanakanta Deka	15-11-1994	01-02-2008
5.	Sonmoni Pator	22-03-2013	22-03-2013
6.	Afir Uddin	04-02-1978	01-02-2008
7.	Shohidul Islam	21-06-1989	01-02-2008
8.	Kemkanta Boro	28-04-1977	01-02-2008

9.	Kusheswar Bordoloi	29-09-2010	29-09-2010
10.	Hobibar Rahman	28-09-2010	28-09-2010
11.	Montiram Barmohela	20-07-1997	01-02-2008
12.	Goljar Hussain	22-03-2013	22-03-2013

3. According to the petitioners, they were originally appointed in the post of Gaonburahs against vacant sanctioned posts and after following proper selection process. Notwithstanding the same, the petitioners were not paid the salary.

4. It appears from the record that when the petitioners were denied salary, some of them had approached this Court earlier by filing WP(C) No.337/2003 which was disposed of by the learned Single Judge by order dated 28.01.2003 with a direction upon the respondents to pass necessary orders for payment of their salaries in accordance with the provisions of the Rules if they were duly appointed by competent authority and have been discharging their duties as such.

5. Taking note of the order dated 28.01.2003 passed by this Court, the Government had decided to make budgetary sanction making allocation of fund for payment of salary of 13 Gaonburahs in the district of Morigaon. Accordingly, salary was paid to the petitioners until 31.01.2008. However, since 31.01.2008, the petitioners have not received their salary. Their services in the post of Gaonburahs have also not been regularized till date. Aggrieved thereby, the petitioners have approached this Court by filing the instant writ petition.

6. The respondent No.1 has filed affidavit-in-opposition wherein the following statements have been made in paragraph 6 :-

“6. That with regard to the statement made in paragraph 3 of the Writ Petition the deponent respectfully states that in the order dated 08.08.2006, it is evident that the Deputy Commissioner of un-divided Nagaon District had appointed 13 Nos. of Gaonburas in the year 1980 in the then un-divided Morigaon Sub-Division without concurrence of the Government for creation of posts. As a result, these 13 Gaonburahs did not get their honorarium. In the said order it is also stated that there was total 257 sanctioned post of Gaonburahs in Morigaon district out of which 241 nos. of Gaonburahs were working. As such there were 16 posts lying vacant. Accordingly, Deputy Commissioner, Morigaon was instructed to (i) Identify the persons responsible for irregular appointment of these Gaonburahs and submit report with documents within one month, (ii) Take necessary action as per law to appoint the petitioner Gaonburahs to the vacant posts, and (iii) Inform Government about the fund required for payment of honorarium upto the date of posting and cancellation of earlier posting.

Further the deponent respectfully states that vide letter No.RLR 111/2004/186 dated 02.03.2009, the Government had sanctioned Rs.13.21 Lakhs towards payment of remuneration for aforementioned 13 Gaonburas of Morigaon District.

Thereafter, the Respondent No.3 issued another letter under No.DLR/Acctt-338/Bt/GR/2017/16 dated 10.01.2018 to the Deputy Commissioner, Morigaon regarding the reason for non-drawal of remuneration by the 13 Gaonburas/Gaon Pradhans w.e.f. 01.02.2008 to 10.01.2018. Accordingly, Deputy Commissioner, Morigaon vide letter No.MRG.7/2005/Pt/270 dated 10.04.2018 requested the Respondent No.3 to move Government to create Gaonburas post and regularize the services of these 13 Gaonburas. In response to the said letter Respondent No.3 vide letter under No.DLR/LR-49/GBR-LOTS/MRG/2016/9 dated 22.05.2018 requested the DC, Morigaon to furnish information regarding (a) appointment orders of the said 13 Gaonburahs, (b) total sanctioned post of Gaonburahs of Morigaon District,

(c) total number of Gaonburahs present and post vacant, and (d) steps taken for filling up the vacant post of Gaonburah. Thereafter the DC, Morigaon submitted the information vide letter No.MRG.7/2005/pt-I/275 dated 04.07.18 inter-alia stating that there are 259 numbers of sanctioned post of Gaonburahs in Morigaon district and out of these, 241 nos. are working and 18 nos. of posts are vacant. However, again vide letter No.DLR/LR-49/GBR-LOTS/MRG/2016/24 dated 01.09.2018, Respondent No.3 asked for some additional information/report from the Deputy Commissioner, Morigaon viz.,- (1) List of Gaonburah Lot in the District showing names of Gaonburah corresponding to the Lots, (2) Identified lots where the irregular Gaonburahs are proposed to be appointed, (3) Undertaking from the Gaonburahs that they are agreeable to the proposed lots, and (4) The order shall be effective only from the date of appointment.

Since the information/report is yet to be received from the Deputy Commissioner the matter has not been resolved.

Copies of the order dated 08.08.2006, letter dated 02.03.2009, letter dated 10.01.2018, 22.05.2018 and 01.09.2018 are annexed herewith and marked as ANNEXURE-A, B, C, D and E respectively."

7. The respondent No.4 i.e. the Deputy Commissioner, Morigaon has also filed a separate affidavit wherein the following statements have been made in paragraph 4 :-

"4. That with regard to the statement made in paragraphs 3, 4 and 5 of the writ petition, the answering deponent respectfully states that remuneration of the petitioner were sanctioned vide Government letter No.RLR 111/2004/186 dated 2.3.2009. But due to non-receipt of budget, the remuneration after 2008 is not paid to the petitioners Gaonburahs. Communications were made to the Government of Assam and Director of Land Records & Survey, Assam for regularization and creation of post for the said Gaonburahs vide this office letter Nos.(1) MRG.7/2005/433 dated 13/2/2012, MRG.7/2005/pt-I/33 dated



15.9.2014, MRG.7/2005/pt-I/260 dated 11/8/2017 and MRG.7/2005/pt-I/270 dated 10.4.2018, but no communication has been received from the Govt. in this regard."

8. From a reading of the statements made in the affidavits filed by the respondent Nos.1 and 4 it transpires that out of the 257 sanctioned post of Gaonburahs in the District of Morigaon, appointments were originally made against 241 vacant posts leaving 16 posts vacant. 13 Gaonburahs were appointed in the Morigaon district but their salary/honorariums could not be paid due to want of financial concurrence. Subsequently, the Government had sanctioned a sum of Rs.13.21 Lakhs vide letter dated 02.03.2009 for payment of remuneration of 13 Gaonburahs. However, what action has been taken to regularize the service of those Gaonburahs is not clear from the affidavit filed by the respondents.

9. If the petitioners were appointed as Gaonburahs against sanctioned vacant posts and by following proper procedure, then it is not understood as to why, the services of the petitioners have not been regularized till today. If the petitioners have rendered long and continuous years of service since their date of appointment in the post of Gaonburah then not only would they have the right to receive regular salary for the period of service rendered by them but they would also be entitled to be regularized against the sanctioned vacant posts. Therefore, the respondents cannot keep the petitioners hanging in uncertainty without properly addressing this issue.

10. Having regard to the facts and circumstances of the case in its entirety, this writ petition is, therefore, being disposed of with a direction upon the respondent Nos.1 and 3 to examine the case of the petitioners. On such examination, if it is found





that the appointments of the petitioners were not illegal and they have continuously served as Gaonburahs since the date of their appointments, then in that event, proper steps be taken for payment of salary to the petitioners for the services rendered by them including the arrear salary. The respondents to also take necessary steps for regularization of the services of the petitioners in the post of Gaonburah.

The aforesaid exercise be carried out and completed as expeditiously as possible, but not later than three months from the date of receipt of a representation to be submitted by the petitioners enclosing a certified copy of this order.

With the above observation, the writ petition stands disposed of.

Parties to bear their own cost.

**JUDGE**

*T U Choudhury/Sr.PS*

**Comparing Assistant**