

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 15150 OF 2017

THE STATE OF ASSAM & ORS.

APPELLANT(S)

VERSUS

MUKUT RANJAN SARMA & ORS.

RESPONDENT(S)

O R D E R

1) Assailing order dated 09.01.2013 passed by the Division Bench of the High Court¹ in Writ Appeal No.7 of 2013 affirming the order dated 01.06.2012 of the learned Single Judge in Writ Petition (C) No. 5645 of 2010, the present appeal has been filed.

2) The relevant portion of the impugned order is reproduced as thus:

“The contention of the State in denying relief to the writ petitioners was that the Chief Secretary, who was the appointing authority, had not approved the appointments.

The respondents submitted that since the State Cabinet as well as the State Level Empowered Committee had approved appointments of the writ petitioners who were duly qualified and covered by

1 Gauhati High Court at Guwahati

the policy, the stand of the State could not be justified. This plea has been upheld by learned Single Judge as follows: -

"The State as the employer had formed the State Level Empowered Committee wherein the Chief Secretary himself was the Chairman and had cleared appointment in respect of the posts in question against which the writ petitioners have been appointed. It is not contested that the posts were either non-sanctioned or that they were not lying vacant for recruitment. Admittedly, the Government at the appropriate level had relaxed the Rules in exercise of its powers of relaxation available under the Rules itself and the said relaxation is made in terms of the public policy approved by the State Cabinet which is the highest collective decision making authority in the State. The relaxation has been made for a class of persons on definite qualifying terms which legally known permissible parameters. The basic qualifications stipulated under the rules for an appointee has not been relaxed. It is only in the realm of the source and the process of recruitment that a departure has been made to give effect to the Cabinet approved public policy which remains on record and has not been reviewed or changed. In view of the same, it is not for the Commissioner & Secretary to the Government in its Secretariat Administration Department to pass the impugned order dated 09.03.2010 revalidating the termination orders dated 19.05.2001 on the grounds stipulated therein. The State Policy adopted by the Cabinet cannot be rescinded by an Executive Officer of a Government Department on the plea that the related Cabinet Memorandum on the basis of which the State Policy stood adopted was not routed through the Chief Secretary; fact remains that the Chief Secretary being the Ex Officio Secretary of the Cabinet itself have the full knowledge of the said Cabinet Memorandum and there is nothing on record to show that the said Chief Secretary had in any manner disowned the veracity or genuineness of the Cabinet Memorandum at any stage before or after its adoption and approval by the State Cabinet on 16.04.2001. The same Chief Secretary is also the Chairman of the State Level Empowered Committee which cleared the recruitment process in the post in which the writ petitioners were appointed. The objection regarding the violation of the rules on this count stating that neither the Chief Secretary approved of the appointment orders nor had issued

the same is of no avail inasmuch as the appointment orders were issued after the State Level Empowered Committee headed by him had approved of the same and the State Cabinet which formulated the policy under which the writ petitioners were appointed acted on the basis of the Cabinet Memorandum while the same Chief Secretary was its Ex-Officio Secretary. It has never been the case of the State Respondents that the particular officer who had issued the appointment orders had acted on his own individual discretion without the valid sanction of the higher authorities. The Chief Secretary under the aforesaid circumstances cannot plead either his ignorance or disapproval in the process of issuance of the appointment orders. The allegation of the change of stand being actuated by change of political power running the State Government in the intervening period of appointment and termination orders as alleged by the writ petitioners also has been taken note of by the Hon'ble Apex Court in the order dated 19.11.2009. The State policy in terms of which the writ petitioners were appointed having not been struck down by any subsequent State Cabinet, it is not for the Commissioner & Secretary of the Government to disown the said State Policy merely on the procedural ground of the Cabinet Memorandum not been routed through the Chief Secretary while the fact remains that the same Chief Secretary was the Ex-Officio Secretary of the Cabinet approving the Cabinet Memorandum. The relaxation of the Rules made under a valid State Policy in terms of relaxation clause stipulated under the same very set of rules also cannot be faulted with. The ground of the appointment orders being illegal for the same being not issued by the Chief Secretary is also too fragile to sustain judicial scrutiny on grounds and the circumstances discussed hereinabove."

We have heard learned counsel for the parties.

Learned counsel for the State submits that in view of specific rule under which the Chief Secretary was the appointing authority, the appointment of the writ respondents/writ petitioners was rightly cancelled. Reliance has been placed on the decision of the Hon'ble Supreme Court in State of Bihar -vs- Upendra Narayan Singh & Ors. (2009) 5 SCC 65 to submit that public employment could be given only by giving equal opportunity to all eligible candidates.

We are unable to accept this submission. There is no dispute that public employment has to be given by giving due opportunity to all eligible persons as per the mandate of Article 16 of the Constitution and no appointment can be given on selective basis excluding the claim of all eligible persons but this consideration may not apply where under policy of State for victims of terrorism, exceptional appointment is made as explained in Arun Kumar & Ors. -vs- Union of India & Ors., (2007) 5 SCC 580. The State itself framed a policy and the Cabinet approved the appointments to rehabilitate the victims of terrorism. The judgment relied upon does not apply to such a situation.

Learned Single Judge has already made it clear that the respondents/writ petitioners will not be entitled to any arrear of salary for the period they had not worked.

Having regard to the facts and circumstances noted above, no interference is called for with the view taken by the learned Single Judge.

The appeal is dismissed."

3) The findings reflect; while dealing with the issues the Division Bench has confirmed the order passed by the learned Single Judge. Learned Single Judge, *vide* order dated 01.06.2012, had directed as under:

"16. In view of the same, the Government is directed to reinstate the petitioners in the post of LDA wherein the petitioners were appointed *vide* appointment orders dated 30.3.2001 as expeditiously as possible but not later than 8(eight) weeks from today. The petitioners, however, will not be entitled to any arrear salary for the period they have not worked.

17. The writ petitions accordingly stand allowed with the above directions.

18. In the facts and circumstances of the case,

there shall be no order as to costs."

4) During the course of hearing, it transpired that this policy was brought to give the benefit and to promote the welfare of the families of those who helped in curbing terrorist activities, and organizing return of militants to the mainstream. However, looking to the said peculiar situation, in place of granting the relief of reinstatement as directed by the learned Single Judge which stands confirmed by the Division Bench of the High Court, the State Government has offered to pay a sum of Rs.5 lakhs per person in lieu thereof. In this regard, the order passed by this Court on 20.11.2025 is relevant, which is reproduced as under:

"1. Learned counsel appearing on behalf of the appellants, on instructions, submits that looking to the efflux of time elapsed, the Government is willing to pay Rs.2,50,000 (Rupees two lakhs and fifty thousand only) to compensate them as one time settlement.
2. In our view, the said amount appears to be less. Learned counsel appearing for the appellants may seek instructions in this regard.
3. List on 27.11.2025"

5) Thereafter on 27.11.2025, it was further submitted by the counsel for the appellants-Government that he has received the instructions;

however, time as prayed to file affidavit was allowed. In furtherance, affidavit has been filed by Shri Ranadip Dam, Joint Secretary, General Administration Department, Government of Assam, and Officer on Special Duty in Office of Resident Commissioner, Assam Bhawan, New Delhi-110001 on behalf of the appellants, wherein, paragraphs 3 and 4 states as under:

"3. That, in deference to the directions of this Hon'ble Court contained in the aforesaid Order dt.20.11.2025, it is respectfully submitted that the Appellant-State is willing to offer a One-Time Settlement amount of Rs.5,00,000(Rupees Five Lakhs only) to each of the Respondents herein (total 40 in number as per the Memo of Parties), in view of the long pendency of the present litigation.

The said submission (regarding grant of one-time settlement amount of Rs.5,00,000/-) was also placed before this Hon'ble Court on 27.11.2025 when this Hon'ble Court was pleased to observe that the Appellant-State may file an Affidavit to this effect. In deference of the same, the present Affidavit is being filed.

4. The Appellant-State of Assam craves leave of this Hon'ble Court to file further detailed affidavit, if required in the facts and circumstances of the present case."

6) Thus, modifying the direction reinstatement and payment of arrears of salary, we direct that the appellants shall pay Rs.5,00,000/-(Rupees Five Lakhs only) per respondent (40 in number as per Memo of

Parties of present appeal) within a period of two (2) months from today and submit a compliance report to the Registry of this Court.

7) In view of the foregoing, with the modifications in the orders of the learned Single Judge and the Division Bench as directed hereinabove, the present appeal stands disposed of.

8) Pending application(s), if any, shall stand disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[VIJAY BISHNOI]

New Delhi;
December 03, 2025.

ITEM NO.102

COURT NO.3

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 15150/2017

THE STATE OF ASSAM & ORS.

Appellant(s)

VERSUS

MUKUT RANJAN SARMA & ORS.

Respondent(s)

[RELEASED FROM PART HEARD]
(IA No. 111129/2022 - APPLICATION FOR VACATION OF INTERIM ORDER)

Date : 03-12-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Appellant(s) :

Mr. Shuvodeep Roy, AOR
Mr. Deepayan Dutta, Adv.
Mr. Saurabh Tripathi, Adv.

For Respondent(s) :

Mr. B. K. Sarma, Sr. Adv.
Ms. Neha Tandon, Adv.
Mr. Bharadwaj S., AOR

Mr. B. K. Sharma, Sr. Adv.
Mr. Parthiv K Goswami, Sr. Adv.
Mr. Rahul Pratap, AOR
Ms. Atiga Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1) The appeal stands disposed of in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)
AR-cum-PS

(NAND KISHOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]