



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

**Case No. : WP(C)/190/2023**

Ama Tajo and 94 Ors.  
Son of Shri Nampam Tajo,  
Working as Jail Warden, Office of Superintendent of Jail, Jail Headquarter, Jully,  
District Papumpare, Itanagar, Arunachal Pradesh, PIN 791113      2: Arvind Kumar  
Yadav  
Age:  
Occupation :

3: Amarjyoti Singh  
Age:  
Occupation :

4: Biri Nillo  
Age:  
Occupation :

5: Chijum Gadi  
Age:  
Occupation :

6: Damnya Gamlin  
Age:  
Occupation :

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7: Dopu Nima

Age:

Occupation :

8: Godak Raja

Age:

Occupation :

9: Gebu Jama

Age:

Occupation :

10: Gebi Romin

Age:

Occupation :

11: Gejom Rakshap

Age:

Occupation :

12: Henjom Taipodia

Age:

Occupation :

13: Jayanand Singh

Age:

Occupation :

14: Karmik Riba

Age:

Occupation :

15: Kago Chatung

Age:

Occupation :

16: Kago Chobin

Age:

Occupation :

17: Kholi Dania

Age:

Occupation :

18: Lingdung Komi

Age:

Occupation :

19: Manoj Kumar Mishra

Age:

Occupation :

20: Mani Kant Pandey

Age:

Occupation :

21: Madhu Sudan Mishra

Age:

Occupation :

22: Marlar Gamkak

Age:

Occupation :

23: Mito Gamlin

Age:

Occupation :

24: Miyi Lona

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Age:  
Occupation :

25: Nijum Yinyo

Age:  
Occupation :

26: Nitesh Kumar Jha

Age:  
Occupation :

27: Nabam Dui

Age:  
Occupation :

28: Netandorjee Singchaji

Age:  
Occupation :

29: Pura Hangu

Age:  
Occupation :

30: Puken Gamin

Age:  
Occupation :

31: Padu Tagyung

Age:  
Occupation :

32: Raj Gogoi

Age:  
Occupation :

33: Remuk Romin

Age:

Occupation :

34: Rikbom Gamlin

Age:

Occupation :

35: Rinchin Khandu Musobi

Age:

Occupation :

36: Subu Riku

Age:

Occupation :

37: Shashi Bhushan Pandey

Age:

Occupation :

38: Satya Prakash Singh

Age:

Occupation :

39: Sancha Desisow

Age:

Occupation :

40: Sadap Tok

Age:

Occupation :

41: Taba Yomcha

Age:

Occupation :

42: Taku Taller

Age:

Occupation :

43: Tai Kere

Age:

Occupation :

44: Tade Magria

Age:

Occupation :

45: Tagi Magria

Age:

Occupation :

46: Anita Moni Pegu

Age:

Occupation :

47: Bompi Likar

Age:

Occupation :

48: Meme Tajo

Age:

Occupation :

49: Jumi Kamki

Age:

Occupation :

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50: Pratima Lama

Age:

Occupation :

51: Linu Gamlin

Age:

Occupation :

52: Dorjeemu

Age:

Occupation :

53: Tilok Boko

Age:

Occupation :

54: Kipa Memu

Age:

Occupation :

55: Komi Tao

Age:

Occupation :

56: Kaushal Kishor Singh

Age:

Occupation :

57: Powang Wangpan

Age:

Occupation :

58: Nima Tsering

Age:

Occupation :

59: Tallo Talo

Age:

Occupation :

60: Marmin Kamki

Age:

Occupation :

61: Marka Basar

Age:

Occupation :

62: Tao Gokap

Age:

Occupation :

63: Sojum Bogo

Age:

Occupation :

64: Rinchin Wangjom Dingla

Age:

Occupation :

65: Dhanti Boruah

Age:

Occupation :

66: Gida Tugung

Age:

Occupation :

67: Manchan Ngiwang



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Age:  
Occupation :

68: Roshan Lowang

Age:  
Occupation :

69: Junmoni Pradhan

Age:  
Occupation :

70: Radhe Tama

Age:  
Occupation :

71: Tamuk Tamut

Age:  
Occupation :

72: Dilip Kumar Yadav

Age:  
Occupation :

73: Reluk Kato

Age:  
Occupation :

74: Pura Rika

Age:  
Occupation :

75: Soknya Gamlin

Age:  
Occupation :

76: Ngasa Gadi

Age:

Occupation :

77: Pakli Gamlin

Age:

Occupation :

78: Kento Kato

Age:

Occupation :

79: Karshap Gamlin

Age:

Occupation :

80: Ram Kishan Yadav

Age:

Occupation :

81: Sudarshan Singh Yadav

Age:

Occupation :

82: Sushanto Roy

Age:

Occupation :

83: Tage Mindo

Age:

Occupation :

84: Khoda Chilyang

Age:

Occupation :

85: Kekko Bole

Age:

Occupation :

86: Ngabi Tali

Age:

Occupation :

87: Taichat Wangsu

Age:

Occupation :

88: Kago Tatung

Age:

Occupation :

89: Shri Kesang

Age:

Occupation :

90: Yomge Ete

Age:

Occupation :

91: Moyir Kato

Age:

Occupation :

92: Pem Droima

Age:

Occupation :

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93: Bomyi Gamlin

Age:

Occupation :

94: Tanyang Tado

Age:

Occupation :

95: Tihua Wangno

Age:

Occupation

VERSUS

THE STATE OF AP and 5 Ors.

Represented by the Secretary to the Govt. of Arunachal Pradesh, Home Department,  
Itanagar, PIN 791111 2:The Secretary

Age: 0

Occupation :

3:The Commissioner and Secretary

Age: 0

Occupation :

4:The Director of Audit and Pension

Age: 0

Occupation :

5:The Inspector General of Prison

Age: 0

Occupation :

6:The Superintendent (PRISON)

Age: 0

Occupation

**Advocate for the Petitioner** : M Chanda

**Advocate for the Respondent :** S. Tapin, Sr. Govt. Advocate.

**::B E F O R E::**

**HON'BLE MR. SANJAY KUMAR MEDHI**  
**JUDGMENT & ORDER (ORAL)**

**(31.01.2024)**

Heard Shri M. Chanda, learned counsel for the petitioners and Shri S. Tapin, learned Senior Government Advocate, Arunachal Pradesh.

2. 95 numbers of petitioners have joined together in this writ petition with amongst others, the principal grievance relating to their pension.
3. The petitioners are working as Head Warden/ Jail Warden in the Jail Department which is under the Inspector General of Prisons of the State of Arunachal Pradesh.
4. The grievance of the petitioners, as indicated above, is treating them to be covered by the New Pension Scheme (for short, 'NPS'). To be more particular, the grievance is against a communication, dated 22.07.2021 issued by the authorities, by which, it has been laid down that employees who were appointed on or after 01.01.2008 would be covered by the NPS scheme.
5. The case of the petitioners is that the recruitment process through which they were inducted in the services was pursuant to an advertisement, dated 19.03.2007. The petitioners had participated in the recruitment process which had consisted of various segments including

physical fitness and interview and accordingly, a merit list was published on 14.12.2007 by notifying 100 numbers of selected candidates for the post of Jail Warden and in that list, the names of the petitioners were included. Consequently, the petitioners were appointed on 15.02.2008 and they were issued offer letter on 15.02.2008 subsequently to which they were formally appointed. The Finance Department however had issued a notification dated 17.11.2007 by which, the new pension scheme was introduced w.e.f. 01.01.2008. It is stipulated that it would be applicable to all new entrants to the State services who were appointed on or after 01.01.2008.

**6.** It is the case of the petitioners that their selection for appointment was prior to 01.01.2008 which is the cut-off date as per the notification and therefore, they are entitled to the benefit of GPF and should be covered by the old pension scheme under the CCS (Pension) Rules, 1972 in terms of the O.M. dated 17.02.2020 issued by the Department of Pension, Government of India.

**7.** Shri Chanda, learned counsel for the petitioners has submitted that the cut-off date is to be examined from the point of view of the date when the vacancy which was existing was sought to be filled up. He submits that there is no manner of doubt that the recruitment process was initiated on 19.03.2007 which is much prior to the cut-off date of 01.01.2008. He submits that even the select list was dated 14.12.2007 and the appointment of the petitioners were incidentally made after

01.01.2008 which should not deprive them of their entitlement to be placed and governed by the old pension scheme.

**8.** The learned counsel for the petitioners have relied upon a number of judgment in this regard including a judgment dated 04.02.2022 of the Division Bench of this Court in WP (C) 7369/2021 (***Sanjay Kumar and Another-vs- Union of India & Others***). The Hon'ble Division Bench vide the judgment dated 04.02.2022 which was dealing with a similar issue which was in connection from an order passed by the Central Administrative Tribunal had held that it is the date on which the recruitment process was initiated which would be crucial to determine as to under which scheme the appointees would be covered.

**10.** For ready reference, the observation made in Paragraph Nos. 19 & 23 of the said judgment are extracted hereinbelow:-

***“19...In the several judgments referred to by the petitioners of the Delhi High Court as well as by the Uttarakhand High Court, it is seen that the consistent view of High Courts in the said matters is that where the process of recruitment have been initiated in the year, 2003 merely because the appointment orders were issued subsequently in the year, 2004 or later, such delay not being attributable to the appointees or the recruitees, the benefit of the Old Pension Scheme which was replaced by the New Pension Scheme from 01.01.2004 cannot be denied to such recruitees/appointees who had applied for, were duly scrutinized”***

***“23...In the facts of the present case as there is no dispute that when***

*the advertisement was issued in the year, 2003 and the selection process had commenced, the Old Pension Scheme was in force. The Judgments of Delhi High Court and the Uttarakhand High Court were rendered on facts which are similar to the facts in the present case. The petitioners had also agitated their grievances by their representation dated 30.08.2017 before the respondent authorities. In the detailed representation preferred before the authorities the petitioners referred to the orders passed by the Uttarakhand High Court in State of Uttarakhand and Ors-vs-Balwant Singh and Others., and by the Delhi High Court in Parma Nand Yadav and Ors-vs-Union of India and Ors., as well as order passed by the Central Administrative Tribunal, Ernakulam Bench and the Central Administrative Tribunal, Jabalpur Bench. The said representation however came to be rejected by communication dated 11<sup>th</sup> December, 2017. Pursuant to which the petitioners approached the Central Administrative Tribunal, Gauhati Bench”.*

**11.** Shri S. Tapin, learned Senior Govt. Advocate, Arunachal Pradesh fairly submits that in view of the law laid down by the Hon’ble Division Bench of this Court which has attained finality and also the case laws referred to on behalf of the petitioners, there would not be much scope to take a contrary view.

**12.** This Court had noticed that there is no ambiguity with the factual position that the recruitment process was initiated vide Advertisement dated 19.03.2007 which would obviously mean that the vacancies in which



the petitioners were appointed were existing at that point of time. Even the final select list is dated 14.12.2007 which is prior to the cut-off date of 01.01.2008 and it is a matter of mere chance that the petitioners were not appointed immediately on publication of the select list but after 01.01.2008. This Court is of the unhesitant opinion that the date of the appointment would not be crucial and the crucial date is the date on which the recruitment process was initiated which admittedly is prior to the cut-off date.

**13.** In view of the aforesaid discussions, the instant writ petition stands allowed and the impugned communication dated 22.07.2021 is interfered with and consequently, it is directed that the petitioners be held to be covered under the old pension scheme and benefits thereunder be granted to them in accordance with law.

**JUDGE**

*Talim*

**JUDGE**

**Comparing Assistant**