

GAHC010028992025



2025:GAU-AS:1979-DB

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

Case No. : WA/49/2025

DR NETRAMONI BARUAH AND ORS
S/O JIBON CHANDRA BARUAH
RESIDENT OF CHALCHALIRANGIA GAON P.O. CHALCHALI, DIST
NAGAON ASSAM 782141

2: DR. PRAMILA KUMARI PRAJAPATI

D/O LATE DASHRATH PRAJAPATI
R/O LARICA GREEN VALLEY
BLOCK 5
FLAT NO. 506
P.O. AZARA
PIN 781017
KAMRUP (M)
ASSAM

3: PHIJU PAO
S/O MAGEN PAO
R/O VILL- 3 NO. SHANTIPUR SADIYA
P.O. CHAPAKHOWA DIST. TINSUKIA ASSAM
PIN-786157

4: MRIDUPABAN SHARMA
S/O BOIRENDRA NATH SHARMA
R/O CHIRINGCHAPORIKHATONAR PARA
P.O. DIBRUGARH DIST. DIBRUGARH ASSAM
PIN-786001.

5: MRS. PRANAMI SARMA
D/O NITISH SARMA
R/O P.O. BAIHATACHARIALI DIST. KAMRUP
ASSAM PIN-781381

6: SANJEEB KALITA

S/O LATE UDAY KALITA R/O TIHU TOWN
WARD NO. 1
P.O. TIHU
DISTRICT NALBARI ASSAM
PIN-781371

7: TRISHNA MONI DAS
D/O ABANI KUMAR DAS R/O JOTI TOWN
NEAR B.T. COLLEGE BARPETA
P.O. SANTINAGAR DIST. BARPETA ASSAM
PIN-781314

8: DR. MONZURUL KADER AHMED

S/O AMZAD HUSSAIN AHMED
R/O VILL- AIRANJANGLA
P.O. A.M. CO. ROAD
DIST. DHUBRI ASSAM
PIN-783323

9: DR. KABITA BARUAH
D/O LATE RAJANI KANTA BARUAH R/O TOWN MORIKALONG DISTRICT
NAGAON
ASSAM
PIN-782001

10: MD. RUHUL AMIN
S/O MD. MAQBUL HUSSAIN VILL- AND P.O. JHASKAL DIST. DHUBRI
ASSAM PIN-783335

11: DR. LATIKA KALITA
D/O LATE DANDI RAM KALITA R/O VILL- 2 NO. HACHANG
P.O. MADHUKUCHI
P.S. RANGIA
DIST. KAMRUP ASSAM
PIN-781354

12: BIKRAM BARO
S/O GIRISH CH. BARO R/O VILL- MADHAPUR
P.O. RUPAHI DIST. BARPETA ASSAM
PIN-781318.

13: BISMEEETA BURAGOHAIN
D/O HEMANTA BURAGOHAIN R/O VILL- HATIGARH
P.O. HATIGARH DIST. DHEMAJI ASSAM
PIN-787057

14: SHEEMPE BARUAH

D/O KAMAL CHANDRA BARUAH
R/O VILL- PATALARCHUKP.O. JAMUGURIHAT DIST. SONITPUR ASSAM-
784180

15: JULIE DAS
D/O AKON CHANDRA DAS
R/O NRL TOWNSHIP
DIST. GOLAGHAT ASSAM
PIN-785615

16: RUMI TALUKDAR
D/O LATE UMESH TALUKDAR R/O HOUSE NO. 27 GARUKUCHI PATH
CHANDAN NAGAR CHARIALIBELTOLATINIALI
BELTOLA GUWAHATI
DIST. KAMRUP (M).

17: NEHA PRASAD
D/O DWIJENDRA PRASAD

R/OBHAKARVITA
WARD NO. 19
P.O. AND P.S. BONGAIGAON ASSAM.

18: MRS. JOYSHREE CHOUDHURY

D/O BRAJEN CHOUDHURY
R/O ARUNODOI PATH
HOUSE NO. 15
HATIGAON NAMGHAR GHY-38

19: SABIHA NAHID
D/O SAFIQR RAHMAN R/O KARENGTINIALI
P.O. JOYSAGAR
DIST. SIVASAGAR ASSAM
PIN-785665

20: MD. AJMAL
S/O ABDUL QUADIR R/O VILL- HATIMURIA
P.O. AND P.S. MOIRABARI DIST. MORIGAON ASSAM
PIN-782126

21: SUBORNA HAQUE
D/O FAZRUL HAQUE SARKAR R/O WARD NO. 13
A.B. COLLEGE ROAD
BYELANE KARIM BOXO
P.O. GAURIPUR DHUBRI
PIN-783331.

22: KABERI SARMA THAKUR
D/O AKHILANANDA SHARMA THAKUR R/O CHANDMARI
OPPOSITE POLICE WIRELESS OFFICE WARD NO. 10
P.O. AND P.S. GOLAGHAT
PIN-785621

23: DR. PARAG GOGOI
S/O LATE PRADIP GOGOI R/O AMGURI
CHANGMAI VILLAGE
P.O. CHARINGIAPUKHURI DIST. SIVASAGAR
PIN- 785680

24: SUMIR BHATTARAI
S/O NAR BAHADUR BHATTARAI
R/O NARANGI
ASEB COLONY QTR. NO. TYPE-VI/01/02
P.O. NARANGI
P.S. NOONMATI
GUWAHATI-781026

25: DOLLY SARMAH
D/O BIRESWAR SARMAH CHITRANAGAR TOWN TANGLA
WARD NO. 4
P.O. TANGLA DIST. UDALGURI BTAD
ASSAM PIN-784521

26: DR.DURLOV SAIKIA
S/O GOLAP SAIKIA
R/O VILL- KHETRIATI
P.O. MAJUKUSHI
DIST. BISWANATH
PIN-784178

27: PREETI REKHA BORUAH
D/O NARAYAN CH. BARUAH R/O VILL- BORPATHARHATKATA KONWAR
GAON
P.O. KONWAR HANDIQUE DISTRICT DIBRUGARH
PIN- 786008

28: DR. MUHSINA KAFIAH HUDA
D/O WARIS ALI
R/O RAJABARIJYOTINAGAR PATH
DIST. JORHAT PIN- 782014

29: MITU DAS
D/O LATE TARUN CH. DAS
R/O VILL- GARIGAONNOWAPARA
P.O. GARIGAON

P.S. JALUKBARI DIST. KAMRUP (M) ASSAM
PIN-781012

30: SANJANA DEVI
D/O PARESH PARAJULI R/O
VILL- GOLIA
P.O. PANIBHARAL
DIST. BISWANATH CHARIALI PIN-784176

31: MRIDUSMITA BORA
D/O JIBA KANTA BORA
R/O MISSION COMPOUND
WARD NO. 9
P.O. AND P.S. GOLAGHAT
DIST. GOLAGHAT ASSAM
PIN-785621

32: DR. LIMA DAS
D/O PRABIN CH. DAS
R/O VILL- NIZARAPUR
H. N. 64
OPPOSITE AEC HOSTEL NO. 6
P.O. GUWAHATI UNIVERSITY DIST. KAMRUP (M)
ASSAM
PIN- 781014

33: DR. BHARATI DEKA
W/O TRINAYAN BARMAN
R/O BARKHETTRIBANEKUCHI
DIST. NALBARI PIN- 781340

34: BEDANTA BARHOI
S/O BINANDABARHOI R/O SARJON
DIST. LAKHIMPUR PIN-784164

35: DR. PANKAJ HAZARIKA
S/O LILADHAR HAZARIKA
R/O R/O VILL- SINGIABHAKAT GAON
P.O. SINGIA NO. 2
DIST. LAKHIMPUR PIN- 78214

36: MRINAL KUMAR ADHIKARY
S/O BHUPENDRA NARAYAN ADHIKARY
RESIDENT OF KALI MANDIR PATH HOUSE NO. 1A
BEHARBARI PO BASISTHA
GUWAHATI DISTKAMRUP M ASSAM 781029

37: YESMIN ARA BEGUM

D/O BASISR ALI
R/O APGCLMAIBELLASUFFERY
DISTCHARAIDEO ASSAM
785689

38: BARBIE LEENA BARHOI
D/O DURLOVE LEENA BARHOI RESIDENT OF D.G AVENUE NEW
AMOLAPATTY
GOLAGHAT
ASSAM 785621

39: GAUTAM BORA
S/O LILA KANTA BORA RESIDENT OFHATIGAON
NEAR HATIGAON HIGH SCHOOL GUWAHATI 781038
ASSAM

40: BHASKAR MAHANTA
S/O SARAT MAHANTA BAKARIGAON RESIDENT OF WARD NO. 4
P.O.MORIGAON
DISTRICTMORIGAON ASSAM 782105

41: ANAMIKA TALUKDAR
D/O LAKSHMI KANTA TALUKDAR
RESIDENT OF VILLAGE JAPARKUCHI PO TERECHIA
P.S. NALBARI
ASSAM 781334

42: MRIGANAV DEBNATH
S/O ANIL CH. DEBNATH
RESIDENT OF AMOLAPATTY WARD NO. 4
P.O. MORIGAON
DISTMORIGAON
ASSAM 782105

43: KANGKANA DEORI
D/O HERAMBA DEORI
RESIDENT OF DPS ROAD
AAHOM GAON
NEAR KAZIRANGA ENGLISH ACADEMY
GAROGHULI
GARCHUK
KAMRUP (M)
ASSAM

44: GAYATRI ADHIKARY
D/O BHUPENDRA NARAYAN ADHIKARY RESIDENT OF NEAR AG COLONY
KALIMANDIR PATH
BYE LANE NO. 1 HOUSE NO. 1 A

BEHARBARI GUWAHATI 781029 ASSAM

45: MD. MOFIZUL ISLAM
S/O MD. HUSSAIN ALI
RESIDENT OF VILLAGE CHALBANDA POBARKANANDA PSBILASIPARA
DIST DHUBRI ASSAM 783348

46: ALAKESH SARMAH
S/O NABIN SARMAH
RESIDENT OF VILLAGE KOTHORA P.O. JAMTOLA
RANGIA
DISTKAMRUP ASSAM 781354

47: ANKUR DAS
S/O BIRENDRA NATH DAS
RESIDENT OF CHANDANPUR WARD NO. 8
POBARPETA ROAD
DIST BARPETA
ASSAM 781335

48: RAJIB KALITA
S/O NARAYAN KALITA
RESIDENT OF KRISHNA NAGAR WARD NO. 2
P.O. AND DISTRICT NALBARI ASSAM 781335

49: KANKANA KASHYAP
W/O RABINDRA CHANDRA DAS
RESIDENT OF UTTARANANDANAGAR GANESH MANDIR PATH
NEW GUWAHATI PO NOONMATI GUWAHATI 781020 ASSAM

50: BHASKAR JYOTI PATHAK
S/O KHANINDRA NATH PATHAK
RESIDENT OF VILLAGE AND POCHENGA
PSTARABARI
DISTBARPETA
ASSAM 781305

51: RAHUL SWARGIARY
S/O HITESH SWARGIARY
RESIDENT OF HOUSE NO. 12 GAONBURA PATH PATHARQUARY
GUWAHATI 781171

52: HELENA AHMED
D/O KABELUDDIN AHMED
RESIDENT OF WARD NO. 15 HOUSE NO. 223
P.O. SONKUCHI
DISTBARPETA ASSAM 781314

53: SNIGDHA DAS
D/O SANJOY DAS
RESIDENT OF CHANDMARIAEI ROAD LEFT BYE LANE . HOUSE NO. 16
GUWAHATI 3 ASSAM

54: PALLABI DAS
D/O PRAFULLA CHANDRA DAS
RESIDENT OF PUB SURUJNAGARKAHILIPARA GUWAHATI 781019

55: JUMILEE GOGOI
D/O NIREN GOGOI
RESIDENT OF HOUSE NO. 13 SHIVA NATH GOGOI PATH PANJABARI
GUWAHATI 37 ASSAM

56: SABIHA RAIYESHA
D/O ATAUR RAHMAN
RESIDENT OF TR PHOOKAN ROAD MACHKHOWA
GUWAHATI 781009 ASSAM

57: NITISHA BORDOLOI
W/O DR GITARTHA BORDOLOI RESIDENT OF APARTMENT 2A HOUSE NO.
19
SHANKARDEV PATH PUB SARANIA ROAD
GUWAHATI ASSAM 781003

58: BIPASHA SARMA
D/O KHAGENDRA NATH DEV SARMA
RESIDENT OF THANA ROAD DHING TOWN
P.O. DHING
DIST NAGAON ASSAM 782123

59: MANASHI TALUKDAR
D/O GAJEN TALUKDAR
RESIDENT OF THAMNA PS MUSHALPUR
DISTRICT BAKSA
781377 ASSAM

60: DHRUBAJIT KALITA
S/O BANKIM KALITA RESIDENT OF KHARJARA PO GOPAL BAZAR
DIST NALBARI ASSAM 781353

61: SAURAV BHATTACHARJEE
S/O JYOTIRMOY BHATTACHARJEE
RESIDENT OF HOUSE NO. 1 LANE NO. 14 FRIST LINK ROAD DIST.
SILCHAR
ASSAM 788006

62: SANJIB BISWAS

S/O LOKESH BISWAS
RESIDENT OF VILLAGE RAMNAGAR (NO.2) PO AZARBARI PS LANKA
DIST. HOJAI ASSAM 782442

63: IMDADUL HUSSAIN
S/O AMZAD HUSSAIN RESIDENT OF BILASIPARA WARD NO. 4
SURJYAKHATA
PO BILASIPARADIST DHUBRI
ASSAM 783348 ASSAM

64: NILAKSHI KAKATI
D/O LATE BIREN KAKATI
R/O HOUSE NO. 3 UTTARAYAN PATH
SIX MILE
KHANAPARA
GUWAHATI 781022
ASSA

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT OF
ASSAM, EDUCATION HIGHER DEPARTMENT, DISPUR, GUWAHATI

2: THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
HIGHER EDUCATION (TECHNICAL) DEPARTMENT DISPUR GHY- 6.

3: THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
EDUCATION (HIGHER) DEPARTMENT DISPUR GUWAHATI-6.

4: DIRECTOR OF TECHNICAL EDUCATION ASSAM
DIRECTORATE OF TECHNICAL EDUCATION
KAHILIPARA GUWAHATI ASSAM

5: ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN
JAWAHAR NAGAR
KHANAPARA
GUWAHATI ASSAM PIN-781022.

6: THE DEPUTY SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-22.

7: THE PRINCIPAL
DHEMAJI POLYTECHNIC

SILAPATHAR
SIMENCHAPORI
DIST-DHEMAJI
ASSAM
PIN- 787061

8:THE PRINCIPAL
GOLAGHAT POLYTECHNIC
FURKATING
DIST- GOLAGHAT
PIN-785610.

9:THE PRINCIPAL
SONITPUR POLYTECHNIC
DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN-784110

10:THE PRINCIPAL
LAKHIMPUR POLYTECHNIC
BIHPURIA DIST- LAKHIMPUR ASSAM PIN-784161

11:THE PRINCIPAL
GOAPLARA POLYTECHNIC
DIST- GOALPARA ASSAM PIN-783101

12:THE PRINCIPAL
BAKSA POLYTECHNIC
BELGURIPATHAR
DIST- BAKSA (BTAD)
ASSAM
PIN-781377

13:THE PRINCIPAL
NALBARI POLYTECHNIC
DIST- NALBARI
ASSAM PIN-781335

14:THE PRINCIPAL
KAMRUP POLYTECHNIC
BAIHATA CHARIALI
DIST- KAMRUP (R)
ASSAM
PIN-781381

15:THE PRINCIPAL
BARPETA POLYTECHNIC

BARPETA TOWN
DIST BARPETA
ASSAM
PIN-781301

16:THE PRINCIPAL
SIVASAGAR POLYTECHNIC
DIMOW
DIST- SIVASAGAR
ASSAM
PIN-787059

17:TANMOY MEDHI
D/O- LATE BIRENKAKATI R/O- HOUSE NO. 3 UTTARAYAN PATH
SIXMILECHACHAL KHANAPARA GUWAHATI-781022

18:SIDDHARTHA KASHYAP
S/O LATE DILIP KUMAR MAZUMDAR R/O KRISHA NAGAR MIRZA
P.O. POLASHBARI DISTRICT KAMRUP ASSAM PIN 781125

19:MRINAL JYOTI SARMA
/O ABINASH SARMA R/O CHAMPAK NAGAR DISTRICT KAMRUP ASSAM
PIN 781124

20:MATIUR RAHMAN
S/O ABDUL LATIF AHMED R/O VILLAGE AND P.O. BHAIRARPAM
DISTRICT BARPETA ASSAM PIN 781308.

21:AKSHEE SHIVAM
D/O S.K. BOTHAKUR R/O SHIVANGI APARTMENT SHIVAMANDIR PATH
BAGHORBARI TINIALI PANJABARI GUWAHATI-37 ASSAM

22:PINAKI RANJAN SEAL
S/O PRADIP KUMAR SEAL R/O B2 SARASWATI NIWAS LOHRA ROAD LAL
GANESH GUWAHATI-781034 DIST. KAMRUP ASSAM

23:JAHIDUL ISLAM
S/O SOBAHAN ALI R/O VILLAGE NAYAPARA P.O. BAHATI DISTRICT
GOALPARA ASSAM
PIN 783125.

24:FRANKY KUMAR KALIA
S/O SRI NIRMAL KUMAR KALIA R/O LAL BANGLOW ROAD P.O. TINSUKIA
DIST. TINSUKIA ASSAM
PIN 786125

25:PRANJAL KUMAR SARMA
S/O SRI SUREN CHANDRA SARMA R/O VILLAGE AND P.O. RANGAMATI

DIST. KAMRUP
ASSAM
781122

26:MUKUL KALITA
S/O LATE BALEN KALITA R/O VILLAGE NOTUN KOIMARI P.O.
CHHAYGAON DIST. KAMRUP ASSAM
PIN 781124

27:DIPANKAR SHARMA
S/O SASHADHAR SHARMA R/O VILLAGE NAKHARA (PAKA) P.O. TIHU
DISTRICT NALBARI ASSAM
PIN 781371

28:PAWAN KUMAR SINGH
S/O SHATRUGHAN SINGHA R/O H/ NO. 35
COLLEGE ROAD KUNDIL NAGAR BELTOLA GUWAHATI DISTRICT
KAMRUP(M)
ASSAM PIN 781029

29:IPSHITA BORAH
D/O TARUN CHANDRA BORAH R/O MANCOTTA CHOWKIDINGHEE DIST.
DIBRUGARH
ASSAM
PIN 786001.

30:ANKURJYOTI TALUKDAR
S/O DIMBESWAR TALUKDAR R/O VILLAGE DALAIGAON P.O. BAMKHATA
DISTRICT BAJALI ASSAM
781325.

31:MANOJ KUMAR DEKA
S/O JOGENDRA NATH DEKA R/O NAKARI RAILWAY APPROACH ROAD
NEAR LAKHIMPUR RAILWAY STATION DIST LAKHIMPUR
ASSAM
787001.

32:NEELIM KONWAR
S/O DULJIT KR. KONWAR R/O QUARTER NO. 3334 KALIBARI AREA
DIGBOI ASSAM
786171

Advocate for the Petitioner : MR. A KHANDAKAR, MR H MAZUMDER,MISS. J GOGOI,MR.
U S BORA,MR P J DUTTA,MR B P BORAH,MR. P K GOSWAMI

Advocate for the Respondent : SC, HIGHER EDU, SC, APSC

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 14.02.2025

Date of Judgment & Order : 25.02.2025

JUDGMENT & ORDER (CAV)

(N. Unni Krishnan Nair, J.)

Heard Mr. P. K. Goswami, learned senior counsel, assisted by Ms. J. Goswami, learned counsel, and Mr. B. P. Borah, learned counsel, appearing on behalf of the appellants. Also heard Mr. K. Gogoi, learned standing counsel, Higher Education Department; and Mr. T. J. Mahanta, learned senior counsel, assisted by Ms. P. Sarma, learned counsel; appearing on behalf of their respective respondents.

2. The appellants, herein, by way of instituting the present intra-Court appeal, have presented a challenge to a judgment & order, dated 28.01.2025, passed by the learned Single Judge in WP(c)8795/2019, rejecting the claim of the appellants for having the contractual appointment effected in their cases, regularized against the sanctioned posts so available.

3. The brief facts requisite for adjudication of the issues arising in the present intra-Court appeal, is noticed, as under:

The Government on the establishment of 11(eleven) new Polytechnics in the State and consequent creation of posts in such newly created polytechnics; a decision was arrived at for filling up of the said posts,

including the posts of Lecturers so created, by way of engaging qualified personnel as Guest/Part Time Faculty.

In view of the said decision so arrived at; the Director, Technical Education, Assam, issued an advertisement, dated 24.12.2016, inviting applications from candidates having the prescribed AICTE/UGC norms adopted by the Government of Assam for engagement as Guest/Part Time Faculty in the newly established 11(eleven) Polytechnics in the State, as spelt-out therein.

The said recruitment was required to be so made by way of evaluating the candidates through a walk-in-interview. The appellants, herein, being eligible, had submitted their respective applications for being considered for recruitment as Guest/Part-Time Faculty pursuant to the said advertisement, dated 24.12.2016. On conclusion of the said recruitment process, a select list was prepared and published vide Notice, dated 01.02.2017, by the Director, Technical Education, Assam.

In pursuance of selection of the appellants, herein, they were issued with individual engagement letters engaging them as Guest/Part-Time Faculty against various Departments.

In terms of the said engagement letter, dated 06.02.2017, the appellants, herein, were to report for joining in their respective institution on 01.04.2017. The engagement so effected, was stipulated to be initially for a period of 6 months from the date of reporting and may be renewed as per the requirement of the Department. It was further stipulated that the

engagement so effected, shall not be claimed for regular appointment. Thereafter, the Government in the Higher Education Department, vide communication, dated 13.02.2017, conveyed its approval towards the engagement of Guest/Part Time Faculty in 11(eleven) newly established Polytechnics in the State from April, 2017, onwards, subject to the following conditions:

“I. Appointment should be purely temporary basis till regular appointment of faculties against created posts.

II. Salary/remuneration should be fixed pay only.

III. All the existing procedures, if any, should be strictly followed for appointment of the guest/ part-time faculties.”

The appellants, herein, have projected that in terms of the engagement letters so issued to them, they had joined their respective services w.e.f. 01.04.2017. Pursuant to the joining of the appellants, herein, w.e.f. 01.04.2017, within a period of less than 2 months; on a requisition so made by the Higher Education Department; the Assam Public Service Commission(APSC) issued an advertisement, dated 25.05.2017, inviting applications, amongst others, for filling up of 113 nos. of vacant posts of Lecturers(Technical) and 86 nos. of vacant posts of Lecturers(Non-Technical) in various Polytechnics of the State, including the posts so created in the newly established Polytechnics of the State.

It is the projection of the appellants, herein, that the posts so advertised includes the posts they were so recruited against in pursuance of the advertisement, dated 24.12.2016. It is seen that in pursuance of the representations so made by the appellants, herein, in the matter; the Director, Higher Education Department, had written to the authorities of the Assam Public Service Commission(APSC), for grant of weightage to the

Guest/Part Time Faculty like the appellants, herein, in the recruitment so initiated vide the advertisement, dated 25.05.2017. However, it is contended by the appellants that no such weightage so given to them.

The recruitment process was, thereafter, carried forward by the Assam Public Service Commission(APSC) and Notifications came to be issued in the matter, laying down the syllabus and thereafter, fixing dates for various segments of the recruitment process.

The initial engagement of the appellants, herein, were being extended from time to time and in the extension so granted in the matter, vide an order, dated 24.09.2019; certain conditions came to be so incorporated in the said order. In the order, dated 24.09.2019, while extending the contractual engagement of the appellants, herein, the conditions so incorporated, are extracted hereinbelow:

“1. The engagement is valid up to 31st December, 2019.

2. The monthly remuneration of the Guest/Part Time Faculties may be disbursed through Treasury as online salary bill being @ Rs.400/- per hour in accordance to Govt. Notification No TEC.107/99/Pt-1/3 dated 01.02.2011.

3. The Guest/Part Time Faculties shall have to perform academic activities such as preparation of the Lecture notes in PPT/PDF format, question papers, mentoring students etc. as may be assigned by the Principal/Higher Authorities in addition to their regular classroom activities.

4. Service of the Guest/Part Time Faculties may be terminated at any time without assigning any reason there to, in case performance is found unsatisfactory or regular faculty is appointed against the sanctioned post. The performance of the Guest/Part Time Faculties may be monitored by a Performance Monitoring Committee.

5. Guest/Part Time Faculties shall avail holidays as applicable to the Institutes and may avail casual leaves on prior permission of the concerned Principal, However, no special

leaves such as study Leave, Maternity Leave, Child Care Leave, Medical Leave and earn leave etc. will be allowed.

6. The engagement is purely temporary and therefore doesn't confer him/her any right for regularization against the permanent vacant posts. The Govt. will also have no liability for his/her job continuity.”

The appellants, herein, in view of the existence of a clause in the orders extending their contractual appointment to the effect that their service was permissible to be terminated at any point of time without assigning any reasons thereto, and also being aggrieved by the advertisement, dated 25.05.2017, to the extent that the said advertisement also mandated a recruitment against the posts to which they were also recruited by following a due process of selection; approached the writ Court by way of instituting a writ petition being WP(c)8795/2019. The learned Single Judge while issuing notice in the said writ petition, noticing the submissions made on behalf of the petitioners, therein, that if the posts so advertised vide the advertisement, dated 25.05.2017, are filled up on regular basis; the said writ petition would become virtually infructuous, was pleased, vide order, dated 29.11.2019, in the interim, to direct that the services of the petitioners, therein, may not be disturbed without special leave of this Court.

The advertisement, dated 25.05.2017, was also put to challenge before the writ Court by a set of petitioners by way of instituting a writ petition being WP(c)2089/2020. The said writ petition was taken-up for consideration by the learned Single Judge, and vide judgment & order, dated 02.07.2024; the same was disposed of by the setting aside the advertisement, dated 25.05.2017, insofar as it related to filling up of 113 posts of Lecturers(Technical) and 86 posts of Lecturers(Non-Technical) in

various Polytechnics of the State.

The learned Single Judge on interfering with the said advertisement, dated 25.05.2017, to the extent noted above; was pleased to grant liberty to the State Respondents for filling up of 113 posts of Lecturers(Technical) and 86 posts of Lecturers(Non-Technical) in various Polytechnics of the State in accordance with the provisions of the Assam Technical Education Service Rules, 1981(as amended). In pursuance of the said judgment & order, dated 02.07.2024, passed by the learned Single Judge in WP(c)2089/2020; the State Respondents have issued a fresh advertisement, dated 30.12.2024, which was also challenged by the present appellants by instituting a writ petition being WP(c)157/2025 before the writ Court.

Upon the respondents filing their responses in the matter; WP(c)8795/2019 along with WP(c)157/2025 and WP(c)159/2025 were taken-up for final consideration by the learned Single Judge. On such consideration being so made; the learned Single Judge was pleased vide order, dated 28.01.2025, to reject the claim of the petitioners, therein (appellants, herein), for a direction upon the respondent authorities for regularization of their services. Accordingly, the said writ petition being WP(c)8795/2019 along with WP(c)157/2025 and WP(c)159/2025, came to be dismissed.

4. Being aggrieved, the appellants, herein, have instituted the present intra-Court appeal before this Court.

5. Mr. Goswami, learned senior counsel for the appellants, herein, has submitted that 11(eleven) new Polytechnics having been so established and the posts being created therein, there being a need to receive AICTE approval; the respondent authorities arrived at a decision to populate the said posts with necessary staff and accordingly, it was decided that the posts, in question, would be initially filled-up on contractual basis. Accordingly, the advertisement, dated 24.12.2016, came to be issued inviting applications for engagement as Guest/Part-Time Faculty from candidates fulfilling the AICTE/UGC norms for the posts, involved. The learned senior counsel has further contended that the appellants, herein, who fulfilled the requisite AICTE/UGC norms, had submitted their respective applications and after being so interviewed in a walk-in-interview by a Board consisting of eminent personalities; a select list came to be so published in the matter by the Director, Technical Education, including therein, the names of the appellants, herein, against various Departments, for which, they were so selected.

6. It was projected by Mr. Goswami, learned senior counsel, that on such selection being effected, the appellants, herein, were issued with engagement orders, dated 06.02.2017, and such engagement as Guest/Part-Time Faculty was against the posts so sanctioned in the 11(eleven) newly established Polytechnics in various Departments by the Government vide the communication, dated 19.08.2009. Although the appellants, herein, were in terms of the original decision only required to work in the said Polytechnics for a period of 3 hours, it is the contention of Mr. Goswami, learned senior counsel, that the appellants, herein, were required to discharge responsibilities similar to that required to be discharged by regular lecturers in various Polytechnics of the State.

7. Mr. Goswami, learned senior counsel, by referring to the materials available on record, has submitted that at the time of their joining in service; the appellants, herein, were required by the respondent authorities to submit their educational certificates with further stipulation that it would not be permissible to the appellants, herein, to pursue employment in other institutions and/or seek any other employment during their rendition of duties as Guest/Part-Time Faculty in the 11(eleven) newly established Polytechnics in the State, wherein, they were so engaged. The learned senior counsel has projected that the appellants, herein, in view of the fact that their educational certificates were being retained by the respondent authorities, were not in a position to submit their applications in pursuance of the advertisement, dated 25.05.2017. It was also projected that the respondents had held-out assurances to the appellants, herein, that their services on contractual basis would be extended from time to time and would be, thereafter, regularized by way of absorption against the posts against which they were so rendering their respective services.

8. Mr. Goswami, learned senior counsel, has further submitted that the respondents in the Higher Education Department had also approached the authorities of the Assam Public Service Commission(APSC) requesting for grant of weightage for the services being rendered by them as Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics, in the recruitment process being so held in pursuance of the issuance of the advertisement, dated 25.05.2017. However, it is contended that in the subsequent Notifications so issued by the Assam Public Service Commission(APSC) pertaining to the mode of selection, in question; no such weightage was extended to the appellants, herein. The learned senior counsel has submitted that subsequent to the advertisement, dated

25.05.2017, and on creation of the Assam Engineering Service Recruitment Board; the said Board had issued a fresh advertisement on 21.02.2023, inviting applications from eligible candidates for recruitment against 80 nos. of vacant posts of Lecturers (Technical) and 57 nos. of vacant posts of Lecturers(Non-Technical) existing in various Polytechnics of the State. The learned senior counsel has further submitted that the some of the appellants, herein, had participated in the said recruitment process so initiated in pursuance of the advertisement, dated 21.02.2023, in view of the fact that there was a stipulation made in the said advertisement that the posts, in question, so advertised, were the posts which had become vacant after 25.05.2017, and not advertised by the Assam Public Service Commission(APSC) and which were free from any legal issues.

9. Mr. Goswami, learned senior counsel, has also submitted that the prescription as made in the advertisement, dated 21.02.2023, would go to reveal that the Government had recognized that there was a right accruing in favour of the appellants, herein, in view of the procedure adopted for their recruitment and subsequent engagement as Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics, which was contended by the learned senior counsel for the appellants, herein, to be on substantive basis.

10. Mr. Goswami, learned senior counsel for the appellants, herein, has submitted that the Cabinet in its meeting held on 24.09.2024, on consideration of a proposal for change of the nomenclature of the Part-Time Faculty and Guest Faculty, engaged in various Polytechnics and Government Engineering Colleges across the State of Assam, on contractual basis; had

decided that those faculties would be engaged on adhoc basis against the sanctioned posts in accordance with the principles outlined in Regulation 3(f) of the Assam Public Service Commission (Limitation and Functions) Regulation, 1951, as per the extant Rules as applicable for appointments in Government Engineering Colleges and Polytechnics of the State. The learned senior counsel has submitted that the decision of the Cabinet towards engagement of persons like the appellants, herein, under Regulation 3(f) of the said Regulation of 1951; demonstrates that the respondent authorities had appreciated the fact that the appellants, herein, were discharging duties similar in nature to that required to be discharged by regular incumbents in the posts, in question, and accordingly, in the event, the appellants, herein, were so engaged under Regulation 3(f) of the said Regulation of 1951; the services of the appellants, herein, in terms of the practice so followed, would be liable to be subsequently regularized.

11. Mr. Goswami, learned senior counsel, has submitted that in terms of the AICTE guidelines holding the field; the institution to which the AICTE norms are applicable, are required to recruit regular faculty for all the programmes/courses as provided in the institution and to maintain the faculty/student ratio accordingly. The learned senior counsel has further submitted that however, the said guidelines provided that contractual faculty would be permissible to be so engaged under extraordinary circumstances, like situations wherein, Court cases are pending and that too, for a short duration. The learned senior counsel has also submitted that on engagement of the appellants, herein, as Guest/Part Time Faculty, they were so projected before the AICTE authorities towards satisfaction of the faculty/student ratio and for obtaining the necessary approval for operationalization of 11(eleven) newly established Polytechnics in the

State.

12. Mr. Goswami, learned senior counsel, has further submitted that the appellants, herein, having been so recruited through a process of selection which mirrors the selection procedure so required to be carried-out by the Assam Public Service Commission(APSC) authorities; their engagement being so effected on selection against regular sanctioned vacant posts, the appellants, herein, are to be deemed to have been so appointed on substantive basis. The learned senior counsel, has, therefore, submitted that the substantive nature of the appointment of the appellants, herein, is further revealed from the nature of duties which they were required to perform on their such engagement in the newly established Polytechnics in the State, in-as-much as, they were not discharging their duties for limited period of time, but, were required to discharge their duties like that of regular Lecturers/Assistant Professors.

13. Mr. Goswami, learned senior counsel, has submitted that given the manner in which the appellants, herein, were recruited as well as the period they have now served against regular vacant sanctioned posts in the institutions to which they were so engaged; the services of the appellants, herein, are required to be so absorbed against the vacant posts involved with effect from the dates of their initial engagement.

14. Mr. Goswami, learned senior counsel, in support of his submissions, has relied upon the following decisions of the Hon'ble Supreme Court:

- (i). Jaggo v. Union of India & ors.,** reported in **2024 SCC Online SC 3826,**
- (ii). Vinod Kumar v. Union of India,** reported in **(2024) 9 SCC 327,**

- (iii). G. Kulanchiyappan v. Vice Chancellor, Indian Maritime University ECR Road & anr.,** reported in **2024 SCC Online Mad. 6134,**
- (iv). Union of India represented by Government of Puducherry & anr. v. K. Velajagan & ors.,**[order, dated 04.02.2025, in SLP(c) Nos. 2868/2018], and
- (v). State of Punjab & ors. v. Jagjit Singh & ors.,** reported in **(2017) 1 SCC 148**

15. In the above premises, Mr. Goswami, learned senior counsel for the appellants, herein, has submitted that this Court would be pleased to interfere with the judgment & order, dated 07.02.2025, passed by the learned Single Judge in WP(c)8073/2019, and direct the respondent authorities to regularize the engagement of the appellants, herein, as Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics in the State by holding that their initial recruitment being so made by way of a due process of selection; the same be treated to be a regular selection for the purpose and they be held to be regular entrants to the cadre.

16. Per contra, Mr. Gogoi, learned standing counsel, Higher Education Department, has submitted that the recruitment to the various posts existing in the 11(eleven) newly established Polytechnics of the State, is governed by the provisions of the "Assam Technical Education Service Rules, 1981". The learned standing counsel has further submitted that in terms of the provisions of the Rules of 1981, the direct recruitment to the posts so covered by the said Rules of 1981, was to be made by the Assam Public Service Commission(APSC), till the year 2021. The learned standing counsel has also submitted that in view of the need so existing for conducting courses in 11(eleven) newly created Polytechnics, on its establishment; the Government had decided to initially man the posts so

created by way of recruiting incumbents against such posts, as Guest/Part-Time Faculty. The learned standing counsel has submitted that the Government while granting approval for engagement of Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics, had vide communication, dated 13.02.2017, clearly stipulated that the appointments so effected, would be purely temporary till regular appointment of faculty is so effected against the created posts.

17. Mr. Gogoi, learned standing counsel, Higher Education Department, has submitted that the engagement orders issued to the appellants, herein, also mandated that the same would not be permitted to be claimed by them, for regular appointment. The learned standing counsel has further submitted that engagement of the Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics, was so made, by clearly stipulating the same from the initial stage. The learned standing counsel has also submitted that even in the advertisement, in question, it was stipulated that the applications were being invited thereby only for recruitment as Guest/Part-Time Faculty. Accordingly, Mr. Gogoi, learned standing counsel, Higher Education Department, by referring to the contentions so raised by the appellants, herein, has submitted that it was also understood by the appellants that they were being recruited only as Guest/Part-Time Faculty in 11(eleven) newly established Polytechnics.

18. By referring to the submissions made by Mr. Goswami, learned senior counsel, that the educational certificates of the appellants, herein, were retained by the respondents, and accordingly, they were not in a position to participate in the recruitment process so initiated vide the advertisement,

dated 25.05.2017, Mr. Gogoi, learned standing counsel, Higher Education Department, has clarified that the certificates were so required to be submitted by the appellants only for the purpose of verification of the same and after completion of the verification process, the educational certificates were returned to the appellants, herein. Mr. Gogoi, has submitted that the contention of the appellants, herein, that the educational certificates were so retained by the respondents; would also not merit an acceptance from the fact that some of the appellants, herein, had participated in the recruitment process so initiated vide the advertisement, dated 21.02.2023. However, those appellants were not successful therein.

19. Mr. Gogoi, learned standing counsel, Higher Education Department, has submitted, in pursuance of the interference made by the learned Single Judge vide order, dated 02.07.2024, passed by the learned Single Judge in WP(c)2089/2020; with the advertisement, dated 25.05.2017, insofar as it relates to the filling up of 113 nos. of vacant posts of Lecturers(Technical) and 86 nos. of vacant posts of Lecturers(Non-Technical) in various Polytechnics of the State; the respondents have issued a fresh advertisement for recruitment against the said posts vide the advertisement, dated 30.12.2024, and the process, thereunder, is presently underway.

20. Mr. Gogoi, learned standing counsel, Higher Education Department, has further submitted that the decision of the learned Single Judge in WP(c)2089/2020 has not been put to challenge and accordingly, the said decision having granted to the State Respondents, liberty, to institute a fresh recruitment process for the posts involved and the State Respondents

acting on the said liberty; having issued the advertisement, dated 30.12.2024, the posts of the appellants, herein, being also a part of the said recruitment process, the appellants, herein, cannot be permitted to claim as on date that their services be also regularized against the posts which formed a part of the advertisement, dated 25.05.2017, and which now forms a part of the advertisement, dated 30.12.2024.

21. Mr. Gogoi, learned standing counsel, Higher Education Department, has further submitted that the appellants, herein, had been so engaged on contractual basis as Guest/Part-Time Faculty with effect from the month of April, 2017. However, the Assam Public Service Commission(APSC) had immediately, thereafter, basing on a requisition so made in this connection by the Higher Education Department, issued an advertisement for recruitment including, therein, the posts of Lecturers(Technical) and Lecturers(Non-Technical) created in various newly established Polytechnics of the State including the posts so held by the appellants, herein. In view of the above position, Mr. Gogoi, learned standing counsel, Higher Education Department, has submitted that it is not a case wherein the appellants, herein, had continued in their services for a long time without a process of direct recruitment against the posts held by the appellants, herein, on contractual basis, being not initiated by the recruiting agency.

22. Mr. Gogoi, learned standing counsel, Higher Education Department, in support of his submissions, has placed reliance on the decision of the Hon'ble Supreme Court in the case of **Ganesh Digamber Jambhrunkar & ors. v. State of Maharashtra & ors.**, reported in **2023 SCC Online SC 1417**. The learned standing counsel by further placing reliance on the decision of

the Hon'ble Supreme Court in the case of **State of Karnataka v. Uma Devi(3)**, reported in **(2006) 4 SCC 1**, and in the case of **State of Karnataka & ors. v. M. L. Kesari & ors.**, reported in **(2010) 9 SCC 247**, has submitted that the appellants, herein, do not fulfill the requisite eligibility criteria for availing the exemptions so granted for regularization of irregular appointees, in-as-much as, the continuation of the appellants, herein, was in terms of the interim directions passed by the learned Single Judge, vide order, dated 29.11.2019, in WP(c)8795/2019. Further, the appellants, herein, have also not completed 10 years of service on the date when they had instituted the WP(c)8795/2019. Accordingly, the learned standing counsel has submitted that the decisions of the Hon'ble Supreme Court rendered in the case of **Uma Devi(3)** [supra] and **M. L. Kesari(supra)**; would not be applicable to the case of the appellants, herein.

23. In the above premises, Mr. Gogoi, learned standing counsel, Higher Education Department, has submitted that the learned Single Judge on consideration of all the relevant aspects of the matter, having concluded that the appellants are not entitled for a direction for regularization of their services by way of absorption; the said conclusion and the judgment & order, dated 07.02.2025, passed by the learned Single Judge in WP(c)8073/2019, would not call for any interference by this Court.

24. We have heard the learned counsels appearing for the parties and also perused the materials available on record.

25. On the establishment of 11(eleven) new Polytechnics in the State and the Government creating posts for operationalization of the said

Polytechnics; a decision was arrived at by the respondent authorities to carry-out a process of recruitment against the posts so created by way of engaging against the posts of Lecturers so created, persons, as Guest/Part Time Faculty. Accordingly, an advertisement was issued on 25.12.2016, with the projection made therein that the engagement so being made, is of Guest/Part Time Faculty.

26. The appellants, herein, had submitted their respective applications in pursuance of the said advertisement, dated 25.12.2016, by understanding the fact that the engagement so being made, is made on Guest/Part Time Faculty and not on regular basis. Thereafter, by way of following a process of selection; a select list being prepared and the names of the appellants, being so included therein, they were issued with an engagement order on 06.02.2017, engaging them against the posts sanctioned in their respective Departments as Guest/Part Time Faculty. The engagement of the appellants, herein, was initially so made for a period of 6 months with the stipulation that it would be renewed as per the requirement of the Department. However, it was specified that the engagement shall not be claimed for regular appointment. The said engagement was to come into effect w.e.f. 01.04.2017. The Government, thereafter, conveyed its approval to the engagement of Guest/Part Time Faculty in 11(eleven) newly established Polytechnics, vide a communication, dated 13.02.2017, and therein, stipulated that the appointment so made is on temporary basis till regular appointment of faculties is so made against the posts so created. The appellants, herein, with open eyes, had accepted the terms and conditions of their such engagement and joined their respective services as Guest/Part Time Faculty.

27. The Higher Education Department, thereafter, issued a requisition to the Assam Public Service Commission(APSC) for recruitment against 113 nos. of vacant posts of Lecturers (Technical) and 86 nos. of vacant posts of Lecturers(Non-Technical) existing in various Polytechnics of the State, including the posts so held by the appellants, herein. After initiation of the said recruitment process by the Assam Public Service Commission(APSC); the Higher Education Department had also written to the authorities of the Assam Public Service Commission(APSC) for grant of weightage to the persons engaged as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics, in the recruitment process so initiated vide the advertisement, dated 25.05.2017. The said step taken by the authorities of the Higher Education Department reveals that the Government had not construed the engagement of the appellants to have been so made on substantive basis. However, as contended by the appellants, herein, in the subsequent Notifications issued by the Assam Public Service Commission (APSC) towards laying down the manner and method for carrying-out a recruitment process in pursuance of the said advertisement, dated 25.05.2017, and of the various stages of the recruitment process; no weightage was so given to the persons so engaged as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics.

28. Being aggrieved; the appellants, herein, had instituted WP(c)8795/2019, before the writ Court and this Court, while issuing notice in the matter, vide order, dated 29.11.2019, was pleased to pass an interim direction to the effect that the services of the appellants, herein, be not disturbed without special leave of this Court. The appellants, accordingly, continued in their respective services under the cover of the said interim directions passed by the writ Court vide order, dated 29.11.2019, in

WP(c)8795/2019.

29. Mr. Goswami, learned senior counsel appearing for the appellants, herein, has submitted that in view of the fact that the appellants were required to submit their educational qualification certificates prior to joining their respective engagements so effected in their cases w.e.f. 01.04.2017, as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics, and further, the undertaking so made by them in the matter to the effect that they would not, during the period of engagement in the said Polytechnics, also work in other institutions and/or seek for better avenues of employment, were not in a position to submit their respective applications in pursuance of the said advertisement, dated 25.05.2017.

30. The above contention of Mr. Goswami, learned senior counsel, was, however, disputed by Mr. Gogoi, learned standing counsel, Higher Education Department, and it was contended that the educational qualification certificates of the appellants, herein, were so required to be submitted for the purpose of verification and on completion of such verification, the educational certificates were returned to the appellants, herein.

31. The recruitment process, as initiated, vide the advertisement, dated 25.05.2017, insofar as it relates to the recruitment of faculties of the newly established Polytechnics of the State, was assailed by a set of petitioners by way of instituting before the writ Court, a writ petition being WP(c)2089/2020. The learned Single Judge vide judgment & order, dated 02.07.2024, was pleased to dispose of the said writ petition by setting aside the advertisement, dated 25.05.2017, insofar as it pertains to filling

up of 113 nos. of vacant posts of Lecturers(Technical) and 86 nos. of vacant posts of Lecturers(Non-Technical) in various Polytechnics of the State. However, liberty was granted to the State Respondents to take appropriate steps to fill-up the said posts, in question, in accordance with the amended provisions of the Assam Technical Education Service Rules, 1981(as amended). The State Respondents in terms of the liberty granted by the learned Single Judge vide judgment & order, dated 02.07.2024, in WP(c)2089/2020; have issued a fresh advertisement, dated 30.12.2024, for recruitment to the posts so involved which include the posts held by the appellants, herein.

32. The decision of the learned Single Judge as rendered in the proceeding of WP(c)2089/2020, has not been assailed and the same has since attained its finality. The posts so forming a part of the advertisement, dated 25.05.2017, having been projected to also include the posts held by the appellants, herein, the same very posts being now put to recruitment vide the advertisement, dated 30.12.2024, the learned Single Judge on a challenge being presented to the advertisement, dated 30.12.2024, having rejected the same; the appellants, herein, cannot claim for absorption against the said posts, in-as-much as, the recruitment, thereof, is underway in terms of the directions passed by the learned Single Judge vide judgment & order, dated 02.07.2024, in WP(c)2089/2020.

33. At this stage, it is to be noted that the service conditions of persons engaged in the Polytechnics of the State, is governed by the provisions of the Assam Technical Education Service Rules, 1981. In terms of the provisions of Section 11 of the said Rules of 1981, the selection for

recruitment against the post of Faculty, is to be so made by the Assam Public Service Commission (APSC).

34. The respondent authorities, thereafter, created the Assam Engineering Service Recruitment Board and the recruitment of the Faculty in various Polytechnics of the State, was brought within the purview of the said Board. Accordingly, the said Board on 21.02.2023, issued an advertisement for carrying-out a process of recruitment of Lecturers(Technical) and Lecturers(Non-Technical) in various Polytechnics of the State. The appellants, herein, contend that they had participated in the said recruitment process so held, in-as-much as, the posts so advertised in terms of the provisions of Clause 2 of the said advertisement, dated 21.02.2023, was specified to be the posts which had become vacant after 25.05.2017, and not advertised by the Assam Public Service Commission(APSC) and free from any legal issues. However, it is stated at the Bar that the appellants, herein, did not come-out successful in the said recruitment process so carried-out in pursuance of the advertisement, dated 21.02.2023.

35. Mr. Goswami, learned senior counsel, by projecting that the appellants, herein, having been so recruited in pursuance of a selection undertaken by the respondent Department, wherein, in addition to reckoning the marks secured by the appellants in their qualifying educational course; they were also subjected to an oral interview conducted by a selection committee consisting of eminent personalities, has contended that in view of the fact that the appellants, herein, had been so recruited in pursuance of a recruitment process, which process mirrored,

the recruitment process so required to be carried-out in the matter by the authorities of the Assam Public Service Commission(APSC) and their such engagement being against sanctioned posts; it has to be construed that the engagement of the appellants, herein, was so effected by the respondent Department on substantive basis. It was further projected that the appellants, herein, on their engagement as Guest/Part Time Faculty, were projected before the AICTE authorities for receiving the necessary approval for operationalization of 11(eleven) newly established Polytechnics. It was, accordingly, submitted by Mr. Goswami, learned senior counsel, that the respondents ought not to have placed a requisition before the Assam Public Service Commission(APSC) for the same very posts against which they were so recruited in the said Polytechnics. It was further submitted that the recruitment of the appellants, herein, as Guest/Part Time Faculty in the 11(eleven) newly established Polytechnics, was not an illegal one. However, it was contended that the same may be denoted to be an irregular one.

36. The above contention of Mr. Goswami, learned counsel for the appellants, herein, has to be examined from the point of view of the disclosure made in the advertisement, dated 25.12.2016, wherein, it was projected that the said recruitment process was only for the purpose of recruiting candidates as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics. The same being the projection; it cannot be ruled-out that many candidates who would have been otherwise qualified for offering their candidature for recruitment as Lecturers(Technical) and Lecturers(Non-Technical) against the posts so created in 11(eleven) newly established Polytechnics; may have not submitted their respective applications given the fact that such recruitment was only, a stop-gap arrangement.

37. In the case on hand, further, it has to be noted that after the engagement of the appellants, herein, as Guest/Part Time Faculty, w.e.f. 01.04.2017, in 11(eleven) newly established Polytechnics; the recruiting authority, had, within a period of about 2(two) months, thereafter, issued the advertisement, dated 25.05.2017, inviting applications for filling-up of posts including the posts of Lecturers(Technical) and Lecturers(Non-Technical) existing in various Polytechnics of the State, including the posts so created in the Polytechnics in which, the appellants, herein, were so engaged. Accordingly, in the case on hand, it cannot be said that there was no existence of any Rules governing the recruitment to the posts of Lecturers(Technical) and Lecturers(Non-Technical) created in various Polytechnics of the State, and/or that the recruiting authority had caused prolonged delay in issuing advertisement for effecting recruitment on regular basis against the posts so created in the 11(eleven) newly established Polytechnics.

38. The services of the appellants, herein, in 11(eleven) newly established Polytechnics, before being so protected by the interim order passed by the writ Court in the proceeding of WP(c)8795/2019, was, for a period of around 2 years or less. Further, the materials brought on record does not disclose that the appellants, herein, were, in any manner, prevented from submitting their respective applications in pursuance of the advertisement, dated 25.05.2017, and the feeble plea so raised in the hearing by Mr. Goswami, of the appellants, herein, being so prevented on account of the educational certificates being retained by the departmental authorities, was categorically denied by the respondents, herein.

39. The delay in conclusion of the recruitment process in pursuance of the advertisement, dated 25.05.2017, was on account of the proceedings instituted before the writ Court in the proceeding of WP(c)2089/2020. The learned Single Judge vide the judgment & order, dated 02.07.2024, having disposed of the writ petition being WP(c)2089/2020, by interfering with the advertisement, dated 25.05.2017, with liberty to the State Respondents to take appropriate steps for filling up of the posts of Lecturers(Technical) and Lecturers(Non-Technical) so available in various Polytechnics of the State; the State having issued the advertisement, dated 30.12.2024, the delay so occasioning in the recruitment process is justified. The delay so occasioning in the facts and circumstances as existing in the case, cannot be held to vest upon the appellants, herein, a right to claim for regularization of their contractual engagement, against the posts which they were so engaged.

40. It is to be noted that the directions passed by this Court vide judgment & order, dated, dated 02.07.2024, in WP(c)2089/2020, in the absence of a challenge being presented to it, has attained its finality.

41. In the above backdrop of the said developments taking place in the matter after the institution of the writ petition being WP(c)8795/2019, by the appellants, herein; it is to be noted that the appellants only on account of being so recruited as Guest/Part Time Faculty, cannot present a claim for being absorbed against the said posts by virtue of their such selection which was nothing but a stop-gap arrangement for filling up of the posts of Faculty as created in 11(eleven) newly established Polytechnics, pending a regular selection which is now underway in pursuance of the advertisement, dated 30.12.2024.

42. Further, the claim of the appellants, herein, for being regularized against the posts, for which, they were so engaged as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics; would also not merit acceptance, in-as-much as, such a recruitment as noticed hereinabove, was only as a stop-gap arrangement till the posts are so put up for regular recruitment. The projection as made by the appellants, herein, that they were being assured by the respondent authorities that their cases would be considered for absorption/regularization against the posts held by them; would also not merit acceptance, in-as-much as, no material in this connection, has been brought on record by the appellants, herein. Further, the materials that are available on record, would go to demonstrate that the respondents had taken a decision to provide for weightage to the services so rendered by the appellants, herein, as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics, in the recruitment process as held in pursuance of the advertisement, dated 25.05.2017. The said step taken by the authorities would demonstrate that the authorities in the Higher Education Department, had never construed the engagement so made in the case of the appellants, herein, to have been so made on substantive basis. Further, it is seen that there was a move on the part of the respondent authorities to engage the appellants, herein, on adhoc basis, by following the provisions of Regulation 3(f) of the Assam Public Service Commission (Limitation and Functions) Regulation, 1951, which again was not for the purpose of the regularization of their services but was, with a view to provide better emoluments.

43. The contention of Mr. Goswami, learned senior counsel for the appellants, that it is not permissible under the norms laid down by AICTE to continue with contractual engagements for long, is being considered, only

to be rejected, in-as-much as, in the event, there occasions any infraction of the AICTE norms; it is upto the AICTE authorities to take appropriate steps, but, the continuance of the appellants, herein, as Guest/Part Time Faculty, in the facts and circumstances involved in the present matter, would not clothe them with any right to claim that on account of their such service being continued, they are entitled to be absorbed against the posts, involved.

44. Having noticed the above position; the decisions as relied upon by Mr. Goswami, learned senior counsel, is being noticed.

45. The reliance placed by Mr. Goswami, learned senior counsel, in the case of **Jaggo**(supra), would also not advance the case of the appellants, herein, in-as-much as, the facts involved in the said case is clearly distinguishable from the facts involved in the present proceeding. The employees involved in the decision of the Hon'ble Supreme Court in the case of **Jaggo**(supra), were engaged on part-time/adhoc basis since long as Safaiwalas and were primarily responsible for cleaning the office premises of the Central Water Commission. The Hon'ble Supreme Court on noticing that the employees involved, therein, had rendered long and uninterrupted service for the periods extending well beyond 10 years, it was held that their cases cannot be brushed aside merely by labelling their initial appointment as part-time or casual. Basing on the said premises, the Hon'ble Supreme Court had proceeded to direct for regularization of their respective service. The cases of the appellants, herein, are clearly distinguishable from that of the employees involved in the decision of **Jaggo**(supra), in-as-much as, in reality; the appellants, herein, can be said

to have rendered their service for a period of around 2 months after their engagement as Guest/Part Time Faculty in various Polytechnics of the State, before the recruiting authority had issued advertisements for effecting recruitment against the posts of Lecturers(Technical) and Lecturers(Non-Technical), including the posts so held by the appellants, herein. Further, the appellants, herein, had approached the writ Court by way of instituting a writ petition being WP(c)8795/2019 within a period of 2 years from their such engagement and thereafter, had continued in their respective service basing on the protection granted by the writ Court in the proceeding of WP(c)8795/2019.

46. The Hon'ble Supreme Court in its decision in the case of **Vinod Kumar**(supra), had noticed the distinctive characteristics of the services rendered by the appellants, therein. The said characteristics was noted by the Hon'ble Supreme Court, in the said judgment, as under:

“4. The appellants have approached this Court arguing that the High Court erred in its judgment by failing to recognise the substantive nature of their duties, which align with regular employment rather than the temporary or scheme-based roles they were originally appointed for. Furthermore, their promotion by a regularly constituted Departmental Promotional Committee, the selection process they underwent, and the continuous nature of their service for over a quarter of a century underscored their argument for regularisation and that the High Court has incorrectly applied the principles from the case of Umadevi (3)² to their situation.

5. Having heard the arguments of both the sides, this Court believes that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status.”

47. Having noticed the distinctive characteristics of the services rendered by the appellants, therein; the Hon'ble Supreme Court had proceeded to uphold their claim for regularization of their services and passed directions, in this connection. The facts so involved in the present case, is clearly distinguishable from the facts involved in the case of **Vinod Kumar**(supra).The appellants, herein, had not rendered services for 10 years and further, in pursuance of the order, dated 04.11.2019, passed in WP(C)8073/2019; they had been continuing in their services under protection of the interim directions so passed in their favour. Further, the recruiting authority proximate to the engagement of the appellants, herein, as Guest/Part-Time Faculty in the Polytechnics, in question; had issued advertisement for initiation of a process for appointment on regular basis against the posts held by the appellants. Accordingly, we are of the considered view that the decision of the Hon'ble Supreme Court in the case of **Vinod Kumar**(supra), would not advance the case of the appellants, herein.

48. The Division Bench of the High Court of Madras in the case of **G. Kulanchiyappan**(supra), on noticing that the appellant, therein, was recruited pursuant to a due process of selection and on the date of selection of the appellant; there was no Recruitment Rules governing the manner of recruitment to the post involved; proceeded to hold that in absence of a Recruitment Rules, it was open for the authorities to evolve a proper methodology for recruitment. Basing on the said conclusion, the High Court of Madras, proceeded to direct for regularization of the service of the appellant, therein. Given the facts involved in the present proceedings, as noticed hereinabove; the facts involved in the case of **G. Kulanchiyappan**(supra) is clearly distinguishable and in our considered

view, the decision would not advance the case of the appellants, herein.

49. The reliance placed by Mr. Goswami, learned senior counsel, on the decision of the Hon'ble Supreme Court in the case of **K. Velajagan & ors.** (supra), is now being considered. A perusal of the said decision, would go to reveal that at the time of engagement of the employees involved, therein, on adhoc basis, there was no Rules framed for the purpose of recruitment to the posts existing in the institution concerned. The said Rule had come after the recruitment of the employees involved, therein, had occasioned. The said aspect of the matter was duly noticed by the Hon'ble Supreme Court and by reckoning the said position and also, the earlier directions passed by the **High Court of Judicature of Madras** for regularization of the employees so engaged on adhoc basis against the posts of Lecturers in the institution involved; the Hon'ble Supreme Court had proceeded to direct for the regularization of the services of the said employees before it.

50. In the case on hand, the recruitment to the posts of Lecturers(Technical) and Lecturers(Non-Technical) in various Polytechnics of the State, is governed by the Assam Technical Education Service Rules, 1981, and further, after the engagement of the appellants, herein, it is seen that the recruiting authority without further delay, had advertised the said posts vide the advertisement, dated 25.05.2017, as well as the said recruiting authority had issued a further advertisement in the year 2023 for the purpose of effecting recruitment against similar posts. Accordingly, the facts involved in the present case being distinguishable, we are of the considered view that the decision of the Hon'ble Supreme Court in the case

of **K. Velajagan**(supra), would not advance the case of the appellants, herein.

51. Having drawn the above conclusions with regard to the case laws cited by Mr. Goswami, learned senior counsel for the appellants, herein; the case laws as cited by Mr. Gogoi, learned standing counsel, Higher Education Department, is now being examined.

52. Mr. Gogoi, learned standing counsel, Higher Education Department, has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Uma Devi(3)**[supra] and it was contended that the benefit of the exception as provided in paragraph No. 53 of the said decision; would not be attracted in the case of the appellants, herein, in-as-much as, they have not fulfilled the pre-condition of having discharged continuous service against a sanctioned post for a period of 10 years without the benefit of any interim protection granted by any Court or Tribunal.

53. Mr. Gogoi, learned standing counsel, Higher Education Department, has, thereafter, placed reliance upon the decision of the Hon'ble Supreme Court rendered in the case of **Ganesh Digamber Jambhrunkar**(supra). A perusal of the decision would go to reveal that the Hon'ble Supreme Court in the said decision after noticing its decision in the case of **Sheo Narain Nagar & ors. v. State of U.P. & ors.**, reported in **(2018) 13 SCC 432**, had drawn the following conclusions:

“3. The issue with which we are concerned in this petition is as to whether by working for a long period of time on contractual basis, the petitioners have acquired any vested legal right to be appointed in the respective posts on regular basis.

4. We appreciate the argument of the petitioners that they have given best part of their life for the said college but so far as law is concerned, we do not find their continuous working has created any legal right in their favour to be absorbed. In the event there was any scheme for such regularization, they could have availed of such scheme but in this case, there seems to be none. We are also apprised that some of the petitioners have applied for appointment through the current recruitment process. The High Court has rejected their claim mainly on the ground that they have no right to seek regularization of their service. We do not think any different view can be taken.”

54. The decision of the Hon'ble Supreme Court in **Ganesh Digamber Jambhrunkar**(supra), in our considered view, applies with all force to the facts involved in the present proceeding. Accordingly, it has to be concluded that the appellants, herein, only by way of having rendered services as Guest/Part Time Faculty, for a period of less than 10 years and that too, under the protection of the orders of the writ Court and also on account of the fact that the regular recruitment process so initiated on account of pendency of proceedings pending before the writ Court, could not be taken to its logical conclusion; cannot claim to have been vested with any legal right for being absorbed/regularized against the posts they were so engaged as Guest/Part Time Faculty in 11(eleven) newly established Polytechnics.

55. Having drawn the above conclusions; we would now proceed to examine the judgment & order, dated 28.01.2025, passed by the learned Single Judge in WP(c)8795/2019. The learned Single Judge after noticing the facts as well as the submissions made by the learned counsels appearing for the parties to the proceeding and also recording a finding to the effect that the appellants, herein, in pursuance of the issuance of the advertisement, dated 25.05.2017, had not participated in the recruitment process and had put the same to challenge in the proceedings of WP(c)8795/2019; proceeded to draw the following conclusions:

“19. In the present case the petitioners had taken part in the selection process pursuant to the advertisement dated 24.12.2016, for engagement of Guest/Part Time Lecturers. The advertisement and the selection process was to have been conducted by the APSC as per the 1981 Rules. However, the same was not done by the APSC and it was done by the Director, Higher Education Department. Thus, the selection of the petitioners was done de hors the Rules. The petitioners were thereafter selected for appointment as Guest/Part Time Lectures and permission for engaging them was made to the State Government, which was given by the State Government with certain conditions. The permission for engaging the petitioners clearly reflected the fact that the petitioners appointments would be temporary till regular appointments were made. The salary would be fixed pay. The appointment letters issued to the petitioners also clearly stated that their engagement would be for 6 months and they could not make a claim for regular appointment. Knowing fully well the conditions of their engagement, the petitioners were appointed In February, 2017. Even before 6 months had elapsed and during the subsistence of their engagement period, advertisement dated 25.05.2017 was issue for making regular appointments to the posts of Lecturer (Technical) & (Non Technical). Instead of the petitioners submitting their applications for taking part in the selection process for filling up the posts of Lecturer (Technical) & (Non Technical) on regular basis, the advertisement dated 25.05.2017 was put to challenge by the petitioners, vide WP(C) 8795/2019, with a further prayer that their services should be regularised. This Court gave protection to the petitioners, by directing the respondents not to disturb the services of the petitioners without the leave of the Court, vide interim order dated 29.11.2018 passed in WP(C) 8795/2019. As can be seen from the above facts, the petitioners' case for regularization does not come within the conditions laid down by the Supreme Court in Umadevi (3) (supra) and M.L. Kesari (supra), wherein an employee could be considered for regularisation, if he had worked for 10 years or more in a duly sanctioned post, without the benefit or protection of an interim order of any Court or Tribunal. In the present case, the petitioners are still working as Guest/Part Time Lecturers on the basis of the protection given vide interim order dated 29.11.2019 passed in WP(C) 8795/2019. When the Constitution Bench of the Supreme Court in Umadevi(3)(supra) does not allow for counting of the services of temporary, contractual employees under the protection of an order of a Court for the purposes of regularisation, the petitioners cannot claim regularization on the ground that they have worked continuously as Guest/Part-Time Lecturers for the period beyond the requirement of the State respondents. The petitioners should have participated in the selection process pursuant to the advertisement dated 25.05.2017, inasmuch as, on the date of issuance of the said advertisement dated 25.05.2017, the petitioners had only completed approximately 3 months of service as Guest/Part-Time Lecturers.

20. The above being said, the further fact remains that the advertisement dated 25.05.2017 was set aside by a Coordinate Bench of this Court in WP(C) 2089/2020, due to the fact that the selection process for filling up the vacant post of Lecturers was to be conducted by the Assam Engineering Service Recruitment Board only, instead of the APSC from the year 2020, as the 1981 Rules had been amended. However, the Coordinate Bench while disposing of WP(C) 2089/2020, gave liberty to the State respondents to advertise the same posts that were advertised in the advertisement dated 25.05.2017 afresh, for filling up the same as per the amended 1981 Rules. Thus, when the Coordinate Bench has allowed the State respondents to re-advertise the same posts mentioned in the earlier advertisement dated 25.05.2017, by way of the present impugned advertisement dated 30.12.2024, the prayer of the petitioners for setting aside the impugned advertisement dated 30.12.2024 cannot be considered by this Court, inasmuch as, this Court does not have any appellate jurisdiction/authority over the judgment of the Coordinate Bench passed in WP(C) 8795/2019.

21. It is also to be noted that the petitioners had taken part in the selection process

for filling up the post of Lecturers (Technical) and Lecturers (Non-Technical) on regular basis, pursuant to the advertisement dated 21.02.2023. When the petitioners had taken part in the selection process for filling up the regular post of Lecturers (Technical) & (Non Technical) in terms of the advertisement dated 21.02.2023, there can be no reasonable explanation for the petitioners to challenge the impugned advertisement dated 30.12.2024 and it can be said that the petitioners had waived any right they might have had, by the said participation. However, the petitioners do not have any right to regularisation of their services and the petitioners can participate in the selection process pursuant to the advertisement dated 30.12.2024.

22. It is also seen that at the time of selection and appointment of the petitioners, the petitioners had been selected by the Director of Technical Education and not by the APSC, which was de hors the 1981 Rules. Accordingly, this Court does not find any ground to direct the respondents to consider regularising the services of the petitioners. Besides, this Court is of the view that the decisions cited by the parties do not support the case of the petitioners.

23. In view of the reasons stated above, this Court does not find any ground to set aside the impugned advertisement dated 30.12.2024 issued by the Chairman, Assam Engineering Service Recruitment Board, insofar as it relates to the post of Lecturers (Technical) & (Non Technical) in the various departments of the respective Polytechnic Colleges of Assam. The further prayer for regularizing the services of the petitioners in the sanctioned regular posts is also rejected due to the reasons given in the foregoing paragraphs.”

56. On a close perusal of the judgment & order, dated 28.01.2025, passed by the learned Single Judge in WP(c)8795/2019, in the light of the conclusions drawn by us, hereinabove, in the present order; we are of the considered view that the findings and conclusions as recorded by the learned Single Judge, vide the judgment & order, dated 28.01.2025, in WP(c)8795/2019, are well-reasoned and supported by materials available on record and accordingly, the same would not call for any interference.

57. Accordingly, in view of the above discussions; we are of the considered view that the present writ appeal is bereft of any merit and consequently, the same stands dismissed. However, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant