

GAHC010036592026



2026:GAU-AS:13060

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

Case No. : WA/111/2026

THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT ASSAM, CHENIKUTHI, GUWAHATI-781003.

VERSUS

MUSTAFIZUR RAHMAN AND ANR
SON OF LATE MAJIBAR RAHMAN, RESIDENT OF VILLAGE- ULUBARI, P.O-
JUNGLEPARA, DIST- DARRANG, ASSAM, PIN-784116.

2:MOUSHUMI KALITA
D/O SRI THAGIRAM KALITA
R/O VILL. BEZPARA
MOUZA MILONPARA
P.O. AND P.S. MANGALDOI
DIST. DARRANG
ASSAM PIN 78411

Advocate for the Petitioner : DHRUBAJYOTI BORO, MR. J K GOSWAMI,MR D J BORO,M. K. BORAH

Advocate for the Respondent : MR. M DUTTA, L DEKA, FOR CAVEATOR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE ANJAN MONI KALITA
ORDER

Date : 08.09.2026
(M. Zothankhuma, J)

Heard Mr. J. K. Goswami, learned counsel for the appellant State and Mr. M. Dutta, learned Senior Counsel for the respondent Nos. 1 & 2, assisted by Mr. L. Deka, learned counsel.

2. This case pertains to the cancellation of the mutual transfer granted to the respondent Nos. 1 & 2, who are Junior Assistants, working in the Animal Husbandry and Veterinary Department (hereinafter referred to as the AH&V Department), Assam. Pursuant to a selection process based on the same advertisement, the respondent Nos. 1 & 2 were appointed on 01.06.2023 by the Directorate of Animal Husbandry and Veterinary Department, Government of Assam. While the respondent No. 1 was appointed as Junior Assistant in the Directorate of Animal Husbandry and Veterinary Department, the respondent No. 2 was appointed as Junior Assistant in the District Office of the Animal Husbandry and Veterinary Department. They were appointed in the same Grade Pay.

3. The respondents thereafter applied for mutual transfer on the basis of O.M. dated 01.01.2025, which was approved by the Government Department and necessary consequential order of mutual transfer was passed on 07.06.2025. O.M. dated 01.01.2025 allowed for mutual transfer, if the employees were covered under the same service rules.

4. The mutual transfer order was thereafter cancelled by the Department on 12.07.2025, on the ground that the respondents were governed by 2 different Service Rules. The appellants' stand was that the respondent No. 1 was governed by the Assam Directorate Establishment (Ministerial) Service Rules, 1973 (hereinafter referred to as 'the 1973 Rules'), while the respondent No. 2 was governed by the Assam District Establishment (Ministerial) Service Rules, 1967 (hereinafter referred to as 'the 1967 Rules').

5. The respondent Nos. 1 and 2, thereafter, challenged the cancellation of their transfer order by filing WP(C) No. 4350/2025. The learned Single Judge allowed the writ petition, vide the impugned judgment dated 10.12.2025, by holding that the Director of Animal Husbandry and Veterinary Department, Government of Assam, had misinterpreted Clause 3(point-b) of the Office Memorandum dated 01.01.2025, in holding that the mutual transfer of the petitioners was in contravention of the said Office Memorandum and accordingly, the learned Single Judge held that the cancellation of the mutual transfer order dated 07.06.2025, on the premise that the appointment and the service conditions of the petitioners were governed by different Service Rules, was illegal. The learned Single Judge thus held that the mutual transfer order was in consonance with the OM dated 01.01.2025, which permits mutual transfer of two employees, if they were covered under the same Service Rules. The cancellation order was accordingly set aside and consequently, the mutual transfer order dated 07.06.2025 stood revived.

6. The State has filed the appeal, on the ground taken in the cancellation order, that the respondent Nos. 1 & 2 were governed by different Service Rules and as such, there could not have been any mutual transfer, in contravention of the O.M. dated 01.01.2025.

7. The stand of the respondents, on the other hand, is that there was no infirmity with the transfer order or the decision of the learned Single Judge.

8. The OM dated 01.01.2025 permits mutual transfer of employees, if they are covered under the same Service Rules. We will have to see if the respondents are governed by the provisions of the 1967 Rules and/or the 1973 Rules.

9. Rule 2(b) of the 1967 Rule provides that the Deputy Commissioner will be the appointing authority in case of appointments to all other ministerial posts in the District Establishment. Rule 2(4) of the 1967 Rules defines District Establishment to mean and include all non gazetted ministerial staff in the offices of the Deputy Commissioner, Sub-Divisional Officers and Sub-Deputy Collectors of the district. Note to Rule 2(4) of the 1967 Rules provides that the Offices of the Deputy Commissioner and Sub-Divisional Officers shall include branches like Supply, Textile, Election, Revenue, Exercise, Development and other general branches. There is no mention of AH&V Department/branches/wing in the office of the Deputy Commissioner or Sub-Divisional Officer.

10. As can be seen from the above provisions of the 1967 Rules, the rule, regulating recruitment and conditions of service of a person, appointed to the Assam Ministerial District Establishment Service, provides for the appointing authority to be the Deputy Commissioner, in the establishment of the Deputy Commissioner or the Sub-Divisional Officer.

11. In the present case, the respondent Nos. 1 and 2 have been appointed by the Director of Animal Husbandry and Veterinary Department, Government of Assam to posts in the AH&V Department in the Directorate and the District Office of the AH&V Department.

12. Rule 2 of the 1973 Rules states that the Heads of the Department, as indicated under Column (1) of Schedule I will be the appointing authority. Serial No. 13 of Schedule I of the 1973 Rules provides that the Director of Animal Husbandry and Veterinary Department shall be the appointing authority in respect of the posts of Senior and Junior Assistant.

13. Rule 2(c) of the 1973 Rules provides that the District Offices will mean and include the different district offices of District Officers and other offices declared as such under the controlling authority of the officer, as indicated under Column (1) of Schedule I. Further, Rule 1(2) of the 1973 Rules provides that 1973 Rules shall be applicable to the ministerial staff of the offices of the Heads of Departments, mentioned in Column (1) of Schedule I.

14. The above provisions of the 1973 Rule thus clearly provides that the Director of AH&V Department shall be the appointing officer for the respondents, as the posts to which they were appointed belong to the AH&V Department, where the Director is the appointing authority. Accordingly, they were appointed by the Director to posts in the Directorate and the District Office of the AH&V Department.

15. On account of the clear mandate of the above provisions of the 1967 and 1973 Rules, it is quite clear that the respondent Nos. 1 and 2 are both covered by the 1973 Rules.

16. The above being said, this Court would like to refer to paragraph 3 of the additional affidavit filed by the Director of Animal Husbandry and Veterinary Department on 27.08.2026 in this appeal, where he has specifically stated "there is no specific Service Rules governing the service condition of the respondent No. 2". It appears that the appellant is not at all sure what stand to take, keeping the above in view.

17. In view of the reasons stated above, we do not find any reason to hold that the respondent No. 2 is governed by the 1967 Rules. Accordingly, we do not find

any reason to interfere with the decision of the learned Single Judge. The appeal is accordingly dismissed.

JUDGE

JUDGE

Comparing Assistant