



# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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No. 194 Dispur, Thursday, 7th May, 2026, 17th Vaisakha, 1948 (S. E.)

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GOVERNMENT OF ASSAM  
ORDERS BY THE GOVERNOR  
LABOUR WELFARE DEPARTMENT

**NOTIFICATION**

The 30th April, 2026

**ECF No. 784612/16.-** Whereas dispute between the Management of Tirual T.E. VS Workmen Smti Malatee Kurmi Tanti & Gobin Chandra Borah, Employees of Tirual Tea Estate, Jorhat was referred to the Presiding Officer, Labour Court, Dibrugarh constituted under the Industrial Dispute Act, 1947 for adjudication and whereas an Award has been given on the dispute by the said Labour Court vide Ref. Case No. 1/2023 Award dated 10.4.2026 as shown in the Annexure hereto.

Now, therefore, in exercise of the powers conferred by Section 17(1) of the Industrial Disputes Act, 1947 (Act. XIV of 1947) as amended, the Governor of Assam, is pleased to direct that the said Award to publish by notifying at the Office of the Labour Commissioner, Assam, Guwahati.

(A W A R D As in the Annexure)

**ASHRAFUL AMIN,**  
Joint Secretary to the Government of Assam,  
Labour Welfare Department.

**BEFORE THE PRESIDING OFFICER, LABOUR COURT,  
DIBRUGARH**

**REFERENCE CASE NO. 01 OF 2023**

Present: Utpal Prasad  
Presiding Officer  
Labour Court, Dibrugarh

THE MANAGEMENT OF  
TIRUAL TEA ESTATE,  
JORHAT, ASSAM... ..MANAGEMENT

-VS-

1. SHRIMATI MALATEE KURMI TANTI
2. SHRI GOBIN CHANDRA BORAH  
EMPLOYEES OF TIRUAL  
TEA ESTATE, JORHAT... ..WORKMEN

**ADVOCATES WHO APPEARED FOR THE PARTIES**

For the Management : Shri S. N. Goswami. Advocate.

For the Workman : Shri B. Kalita, Secy., ACKS.

Date of final hearing : 13.11.2025

Date of Award : 10.04.2026

**A W A R D**

1. The instant reference finds its genesis in the notification of reference being ECF No.400645/19 dated 27.10.2023 of

the Govt. Of Assam, Labour Welfare Department whereby, the following questions have been referred to this court for adjudication:

- i. Whether the management of Tirual Tea Estate is justified to give retirement to the two staff before the age of 50 (sic.) years and that too in the middle of the year?
  - ii. If not, whether the staff employees viz. Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Bora are eligible for receiving full payment of their remaining months of service?
2. The case record does not show that with the notification any statement of any of the parties received by the government under Rule 11(4) of the Assam Industrial Disputes Rules, 1958 was sent. This lapse resulted in this court asking both the sides to submit their respective pleadings before this court even though Rule 12(2), the side opposite to the side approaching the government for redressal of his/her grievance is only entitled to submit a rejoinder to the statement under Rule 11(4) of the Assam Industrial Disputes Rules, 1958.
3. The management has taken the plea that the usual age of retirement on superannuation of a workman is 58 years extendable, by the management of the employer company, up to 60 years of age and, while Shrimati Malatee Kurmi Tanti had been retired on 31.03.2022 at the age of 58 years and 5 months, it is silent on date and age of

retirement of the other workman, Shri Gobin Chandra Bora. However, it has taken the plea that Shri Gobin Chandra Bora was also retired after attainment of the age of 58 years. This is also the plea of the management that by default, the age of superannuation of a workman is 58 which is, in deserving cases, extendable up to 60 at the discretion of the management.

4. On the other hand, the workmen, in their joint written statement, have taken the plea that initially, the notice of retirement to Shrimati Malatee Kurmi Tanti stated the date of her retirement to be 31.03.2022 and later, in a corrigendum, stated the dated of retirement to be 31.03.2023 calling the earlier stipulated date to be an error. On behalf of the workman Shri Gobin Chandra Borah, plea has been taken that the notice of retirement to him stipulated 01.05.2023 as the date of his retirement. The workmen have pleaded that because of the aforesaid conflicts in the notices mentioned above and the view of the workmen that the age of their superannuation, according to the relevant rules, is 60 years, the dispute was raised before the Labour Officer, Jorhat at the initiative of the concerned trade union. In the said conciliation, there was no fruit. Peculiarly, in paragraph 6 of the written statement itself, the workmen admit that normal age of retirement of workmen is 58 with the discretion to the management to raise it up to 60 years though, it has also taken the plea that no previous notice of extension of

service was issued to the workmen concerned and therefore, their retirement, post 58 but before 60, is not sustainable.

5. Perhaps, since the notification of reference of this dispute mentioned above had already framed the questions to be decided by this court, my learned predecessor did not consider it necessary to frame formal issues in the matter. Further, the Assam Industrial Disputes Rules, 1958 also does not envisage such a step. Thereafter, the matter proceeded to the stage of recording of evidence with the employer management examining its solitary witness as MW-1 was cross-examined after submission of his affidavit on evidence along with several documents he exhibited. The order dated 15.06.2024 passed in this case points out that no original document was exhibited and the case record does not show any case for production of secondary evidence was sought to be pressed by the employer management. Thereafter, the two workmen submitted their respective evidence on affidavit and subjected themselves to cross-examination on behalf of the employer management.
6. After closure of the evidence, the arguments were heard.
7. The last date fixed was 11.12.2025 but the case was not put up since the Labour Court was not functional after bringing into effect of Industrial Relations Code, 2020 w. e. f. 21.11.2025 which does not speak of Labour Court and apparently, repealed the Industrial Disputes Act, 1947 by virtue of section 104 of the new Code.

8. However, on 08.12.2025, the Industrial Relations Code (Removal of Difficulties) Order, 2025 was notified which mandated that the Labour Court constituted under the Industrial Disputes Act, 1947 should continue to function until Industrial Tribunal under the new Code are notified and established.
9. In view of the aforesaid developments, due to non-functioning of the Labour Court, and thereafter since the case record was not put up earlier, delay in passing of this award has resulted.
10. At the time of arguments, both the sides have stuck to their respective stand displayed in their respective pleadings.
11. This court has considered the rival pleadings, the evidence recorded and the rival arguments advanced carefully and proceeds to decide the questions referred to this court in the following manner:

***Question No.1: Whether the management of Tirual Tea Estate is justified to give retirement to the two staff before the age of 50 (sic., 60) years and that too in the middle of the year?***

12. It is noteworthy that neither elsewhere in the case record, nor during the cross-examination of the management witness, it seems that the workmen have objected against non-production of the original documents as exhibits on behalf of the employer management. Further, during cross-examination of the said witness as well, the workmen side has raised any objection against exhibition of xeroxed copies of the original documents. Moreover, in a litigation

under a beneficial legislation like Industrial Disputes Act, 1947 where strict rules of evidence as per the Indian Evidence Act, 1872 or Bharatiya Sakshya Adhiniyam, 2023, as the case may be, are only a matter of discretion and guidance and not strictly binding, more particularly, when the parties to a *lis* before it are not at loggerheads in this respect. As such, this court is inclined to consider the evidentiary value of those exhibits of the employer management as admissible documents.

13. Having said so, this court proceeds to consider the evidence on behalf of the employer management along with the documents exhibited by it. The concerned witness has, in his evidence on affidavit, testified that the normal retirement age of the concerned staff was 58 years according to the ATPA (Assam Tea Planters' Association) circular exhibited as Ext.1. Perusal of the said exhibits shows the contrary. It states that it was resolved that the constituent tea planters/tea estates could enhance the retirement age of workman to 60 years subject to the particular workman being medically fit as certified by competent medical authorities and that the said incumbent has an unblemished service record. The last line of the circular being Circular No. G-9/34 dated 04.07.2012 shows that it was advisory to all the member tea estates to follow the above guidelines to meet the expectations of the union concerned, that is, ACKS. At no place in the affidavit of evidence, the witness Amal Kumar Sahu has stated that the Tirual Tea Estate had not agreed to the advisory or that

in cases of the aggrieved workmen, namely, Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Borah, the conditions of being medically fit and having unblemished service record was not fulfilled. Ext.1 also shows that it was an agreement between the ATPA and the ACKS under Section 18 (1) of the Industrial Disputes Act, 1947 and, therefore, binding on the parties. Further, Ext. 1 does not state that retirement age of the concerned workmen was extendable up to the age of 60 years but, instead, shows that the retirement age was enhanced to 60 years. In his evidence, this witness has admitted that Shrimati Malatee Kurmi Tanti was allowed to continue in her service beyond the age 58 years but was retired before she attained the age of 60. He makes similar statement regarding the other workman Shri Gobin Chandra Borah. He has exhibited the age proof of Shrimati Malatee Kurmi showing that on 01.03.1982, she was 18 years and 4 months old. The employer management has not given the age proof of the other workman and therefore, the undisputed statement in the evidence of Shri Gobin Chandra Borah that his date of birth, as recorded in his service records, is 01.03.1964, has to be accepted as correct. Ext. 4 of the employer management is the letter written by Shrimati Malatee Kurmi Tanti disputing the justification of her alleged premature retirement which has been termed a letter of harassment by the management witness which is incorrect on the very face of it. During his cross-examination, he has

admitted that both the workmen were allowed to continue in their services even after they crossed the age of 58. This also indicates that the two preconditions set in Ext. 1 mentioned above were fulfilled to the satisfaction of the employer management and that no inference contrary to this can be drawn.

14. As WW-1, Shrimati Malatee Kurmi Tanti has exhibited Staff Retirement (Minimum Benefit) Agreement effective from 01.11.1970 to dispute her premature retirement as Ext. A. However, Ext. 1 of the employer management is dated 04.07.2012 and is an equally binding agreement under Section 18 of the Industrial Disputes Act, 1947 as modifying the 1970 Scheme as to the age of retirement on superannuation. The cumulative effect of the two agreements is a matter of legal interpretation and conclusion by the court and the erroneous placement of reliance on the 1970 agreement by the workmen in this case cannot be said to be fatal to their claim. Ext. B is the letter by the employer to her stating that age of superannuation was 58 is not material in as much as apart from the fact that it can be used to show that this workman was prematurely retired, it is of no evidential utility. Her cross-examination on behalf of the employer harps on the default age of superannuation being 58 extendable up to 60 at the absolute discretion of the employer. The cross-examination fails to show, to the benefit of the employer management, that Ext. 1 dispels the case of the workman.

15. The evidence of the WW-2 Shri Gobin Chandra Borah is on the same line as that of WW-1 and his cross-examination is also, by and large, similar to the pleas taken during cross-examination of WW-1. No significant dissimilarity of evidential value is seen in the two testimonies.
16. The analysis of the evidence recorded and the documents exhibited, for the purpose of answering the question under consideration, shows several aspects of the matter: *that the two workmen were retired before they attained the age of 60; that Ext.1 modifies Ext. A so far as it pertains to the age of superannuation; and that it is binding under Section 18(1) of the Industrial Disputes Act, 1947.* In view of this, it is held that the employer management was not justified in retiring Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Borah before they attained the age of 60 years. The question whether they ought or ought not to have been so retired in the middle of the year is of no legal relevance as the date of superannuation can only be decided on the basis of date of birth and legal age of superannuation which can happen anytime during 12 months of a year. The question under reference, is therefore, answered accordingly.

***Question No.2 : If not, whether the staff employees viz. Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Borah are eligible for receiving full payment of their remaining months of service?***

17. Since it has been held that retirement of the two workmen prematurely was/is unjustified, natural course of action

following this conclusion would be their reinstatement. However, the date of birth of Shrimati Malatee Kurmi Tanti has been proved to be 01.11.1964 which means that she has already attained the age of superannuation of 60 on 30.10.2024. Similarly, date of birth of Shri Gobin Chandra Borah has been proved to be 01.03.1964 which means that he attained the age of 60 on the last day of February 2024. As of now, both of them being past their 60, as per the relevant rules, they cannot be actually and physically reinstated back. However, from the record of the case it is clear that both of them were willing to continue till attainment of the age of 60 and therefore, the employer management cannot claim that they were not available for discharge of their duties and their not functioning beyond 31.03.2022 can only be attributed to the unjustified action of the employer management and not to these workmen. In such a scenario it must be held that Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Borah are entitled to receive full salary/remuneration from 01.04.2022 to 30.10.2024 (in case of Shrimati Malatee Kurmi Tanti) and from 31.03.2022 to 29.02.2024 (in case of Shri Gobin Chandra Borah) by deeming their reinstatement and continuation of their service till the date attainment of the age of 60. Consequently, the two workmen are also held entitled to receive the pensionary benefits including gratuity etc. in terms with their deemed reinstatement in service as aforesaid.

18. In the result, formally speaking the **award** passed in this case is as follows:  
"The employer management of Tirual Tea Estate is unjustified in retiring Shrimati Malatee Kurmi Tanti and Shri Gobin Chandra Borah before the age of 60 and they are entitled to be deemed to have been reinstated since 31.03.2022 till the age of 60 which, in case of Shrimati Malatee Kurmi Tanti is 30.10.2024 and in case of Shri Gobin Chandra Borah is 29.02.2024. Further, they are entitled to receive the respective salaries post 31.03.2022 till the aforesaid respective dates of attainment of age of 60 with full pensionary benefits as admissible including payment of gratuity as if they had retired on attainment of the age of 60."
19. This Court is of the view that the Industrial Disputes Act, 1947 has been repealed by operation of section 104 of the Industrial Relations Code, 2020 and the present function of this Court is only under the Industrial Relations Code (Removal and Difficulties) Order, 2025 as a fill up gap measure, section 55(2) of the Industrial Relations Code, 2020 comes into play.
20. Hence, copies of this Award shall be furnished forthwith to both the sides and shall also be sent to the appropriate Government (which has referred this matter for adjudication) under section 55(2) of the Industrial Relations Code.
21. Nevertheless, in view of section 55(3) of the Industrial Relations Code, 2020, this Award shall become enforceable

only after expiry of 30 (thirty) days from today subject further to the provisos contained in the said sub-sections.

22. The original documents submitted by the parties, if any, be returned to the respective parties after retaining true copies thereof.

Given under my hand seal of this court on this the 10<sup>th</sup> day of April 2026.

**L. K. SAIKIA,**  
Presiding Officer,  
Labour Court, Dibrugarh.