

GAHC040001972023



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

Case No. : WP(C) 75/2023

1:Leiki Tsomu
W/o Tsangpa Norbu,
Resident of Village Jangda,
PO Lhou, PS Jang, Tawang District, Arunachal Pradesh 790101
Phone No. 8729931693

VERSUS

1:THE STATE OF AP and 7 Ors.
Represented by the Commissioner/Secretary, Public Works Department, Govt. of
Arunachal Pradesh, Itanagar 791111

2:The Commissioner (Vigilance)
Govt. of Arunachal Pradesh
Itanagar 791111

3:The Under Secretary (Vigilance)
Govt. of Arunachal Pradesh
Itanagar 791111

4:The Superintendent Engineer
Co ordination Training and Vigilance
Public Works Department
Govt. of Arunachal Pradesh.

5:The Superintendent Engineer
Rupa Circle
Public Works Department
West Kameng District
Arunachal Pradesh.

6:The Executive Engineer
Bomdila Division
Public Works Department
West Kameng District
Arunachal Pradesh.

7:The Deputy Commissioner
Bomdila
West Kameng District
Arunachal Pradesh 790001

8:The Director
Audit and Pension
Govt. of Arunachal Pradesh
Naharlagun 79111

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 21-02-2023

Heard Mr. B. Picha, learned counsel for the petitioner and Ms. P. Pangu, learned Govt. Advocate for all the respondents.

The petitioner, who is working as a Peon in the office of the Executive Engineer, Bomdila Division, Public Works Department, West Kameng District, Arunachal Pradesh, and due to retire on 28.02.2023 on attaining the age of superannuation, has filed this writ petition raising a grievance that the respondent authorities are not processing her pension papers for non-submission of a No Objection Certificate(NOC) to the effect that the petitioner is not in encroachment of any public premises as is required to be submitted in terms of the order dated 06.06.2017, issued by the Principal

Secretary(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide No.VIG-71/2014/45 as well as the office order dated 25.02.2020, issued by the Commissioner(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide Memo. No.VIG-71/2014/365.

The contention of the petitioner is that the entitlement of pension by the petitioner for the services that the petitioner has rendered is regulated by the Central Civil Services (Pension) Rules, 1972. Under the CCS (Pension) Rules, 1972, there is no requirement of submitting any No Objection Certificate from the concerned Deputy Commissioner that the petitioner is not in encroachment of any public premises and accordingly, the requirement of submission of NOC, in terms of the office order dated 06.06.2017, issued by the Principal Secretary(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide No.VIG-71/2014/45 as well as the office order dated 25.02.2020, issued by the Commissioner(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide Memo. No.VIG-71/2014/365, is contrary to the CCS (Pension) Rules of 1972.

It is a settled position of law that the right to receive pension by a public servant has been held to be covered under the "Right to Property" and accordingly, the same cannot be taken away, except in accordance with the law. The office order dated 06.06.2017, issued by the Principal Secretary(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide No.VIG-71/2014/45 as well as the office order dated 25.02.2020, issued by the Commissioner(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide Memo. No.VIG-71/2014/365, not being a law but merely an executive order, which runs contrary to the CCS (Pension) Rules of 1972, I am of the view that the respondent authorities are duty-bound to process the pension papers of the petitioner, if the petitioner is entitled to a pension under the CCS (Pension) Rules, 1972.

Accordingly, the respondent authorities are directed to process the pension papers of the petitioner, without insisting for No Objection Certificate as contemplated in the office order dated 06.06.2017, issued by the Principal

Secretary(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide No.VIG-71/2014/45 as well as the office order dated 25.02.2020, issued by the Commissioner(Vigilance), Govt. of Arunachal Pradesh, Itanagar, vide Memo. No.VIG-71/2014/365, if the petitioner is entitled to a pension under the CCS (Pension) Rules, 1972.

The writ petition is disposed of, with the above direction.

JUDGE

Comparing Assistant