

GAHC010006272022



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

Case No. : WP(C)/254/2022

SARASWATI DAS
W/O LATE RATI KANTA KAIBARTA DAS
RESIDENT OF MALIGAON GOSHALA MOILA TENKI QUARTER NO. 235 B
TYPE II, PO MALIGAON, PS JALUKBARI, DIST KAMRUP ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE GENERAL MANAGER, NF RAILWAY, MALIGAON,
GUWAHATI

2:THE DIVISIONAL RAILWAY MANAGER
LUMDING
NF RAILWAY
LUMDING

3:THE SENIOR SECTION ENGINEER

SIGNAL AND TELECOM DEPARTMENT
NF RAILWAY
MALIGAON
GUWAHATI

4:THE F A AND C A O
PENSION
NF RAILWAY
MALIGAON
GUWAHAT

Advocate for the Petitioner : MS. N S THAKURIA

Advocate for the Respondent : SC, NF RLY

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 13-12-2023

Heard Ms. N.S. Thakuria, learned counsel appearing for the petitioner. Also heard Mr. B. Sharma, learned Standing Counsel, N.F. Railway, appearing on behalf of the respondents.

This writ petition is filed by the petitioner praying for a direction to the respondent Railway authorities to release the family pension payable to her, she being the wife/legal heir of the railway employee Late Rati Kanta Kaibarta Das, who expired on 18.04.2014 while in service.

It is submitted by the learned counsel for the petitioner that on the death of Late Rati Kanta Kaibarta Das, the petitioner, being the wife of the deceased railway employee, staked her claims before the respondent authorities for grant of family pension to her. However, the claim of the petitioner for family pension were not processed by the respondent authorities on the ground that as per the report of the enquiry conducted by the Welfare Inspector of the railway department, there were other family members available besides the petitioner.

This Court had admitted the matter by issuing Rule. The pleadings have been exchanged. At paragraph 7 of the affidavit filed by the Railway authority, the documents necessary for pressing the claims for family pension are mentioned. Learned counsel for the petitioner submits that all these documents have already been submitted, save and except Form Nos. 7, 10, 11, 12, 14 and 19 along with "Annexure-II" and "Annexure-V". It is submitted that these forms and documents are to be provided by the railway authority which, in turn, are to be submitted back to the Railway authority after filling up the same with necessary details.

Learned counsel appearing for the Railways questioned the maintainability of the writ petition. He submits that the proper forum for the petitioner is the Central Administrative Tribunal (CAT), Guwahati, to which the petitioner should be relegated. It is further submitted that since there are disputed questions of facts, the CAT, Guwahati is the appropriate forum which the petitioner should have approached first. Learned counsel representing the Railway authorities further submits that as per the inspection report of the Welfare Inspector, there were other family members of the deceased railway employee, because of which pension could not be processed in favour of the petitioner. That apart, the required documents, as mentioned in paragraph 7 of the affidavit-in-opposition of the Railways, have also not been submitted by the petitioner.

The rival submissions have been duly considered. Pleadings on record have been carefully perused. What transpires from the submissions and the pleadings is that neither the petitioner nor any other family members has received the pension till date. According to the Railways, apart from the petitioner, the deceased railway employee had other family members. Whether the petitioner or any other family members are entitled to the family pension is required to be decided by the railway authorities as per rules and the relevant provisions of law as well as on the basis of the documents required to be submitted for this purpose and which decision has not been taken by the Railway authorities as on date. Be that as it may, as on date the documents mentioned at paragraph 7 are not before the respondent authorities to decide upon the claim of the petitioner for family pension.

In that view of the matter, this Court is of the opinion that the writ petition can be disposed of at this stage on the limited prayer of the learned counsel for the petitioner that the necessary documents/forms, which are required to be submitted by the petitioner for claiming her family pension, be directed to be issued to the petitioner by the Railway authorities so that the same can be submitted back to the Railway authorities with necessary particulars along with any other supporting

documents, if required. In view of the fact that this Court issued Rule and the matter had been admitted for hearing, this Court does not propose to non-suit the petitioner on this ground.

Accordingly, the writ petition is disposed of by giving liberty to the petitioner to file necessary application before the competent respondent authority, within a period of ten days from today, seeking the documents/forms as mentioned in paragraph 7 of the affidavit-in-opposition and upon receipt of the documents/forms from the respondent authority, the petitioner, if so advised, may submit the said papers/documents along with duly filled up forms for staking her claim for grant of family pension as the widow of Late Rati Kanta Kaibarta Das, the deceased railway employee. Once the documents/forms claiming for family pension are received from the petitioner, the respondent Railway authorities shall process and finalise the petitioner's claims for family pension within a period of sixty days from the date of receipt of the claim of the petitioner duly accompanied by the required documents/forms.

The railway authorities will be within their rights to make necessary enquiries regarding any other counter claims that may arise in respect of the family pension claimed by the petitioner. After making necessary enquiries on such counter claims, the issue of entitlement of the family pension in question shall be decided by the competent respondent authority by passing a speaking order. Any such order that may be passed, a copy thereof shall be served upon the petitioner.

No order as to costs.

JUDGE

Comparing Assistant