

GAHC010009992022



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

Case No. : Cont.Cas(C)/34/2022

JAHANARA BEGUM
W/O- LATE HATEM ALI AHMED, VILL.- NAYATOR KHOLARESERVE, P.O.
AND P.S. NAGARBERA, PIN- 781127, DIST.- KAMRUP(R), ASSAM

VERSUS

SUBHASH CHANDRA DAS
DIRECTOR OF PENSION, ASSAM, DISPUR, GUWAHATI-781006.

Advocate for the Petitioner : MR. S ALIM
Advocate for the Respondent : MR. C S HAZARIKA

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

28-06-2023

Heard Mr. S. Aalim, learned counsel for the petitioner. Also heard Mr. C.S. Hazarika, learned Junior Government Advocate, Assam.

This contempt petition is filed by the petitioner alleging willful disobedience of the order dated 26.11.2019 passed by this Court in WP(C) No.3669/2017. The writ petition was filed by the petitioner being aggrieved by deduction of an amount of Rs.93,158/- (Rupees Ninety Three Thousand One Hundred Fifty Eight only) on account of alleged excess drawl of pay due to wrong fixation of pay

scale in favour of the petitioner's husband while he was serving as an Assistant Teacher in Nayator Sonapur M.E. Madrassa School, in the District of Karmup Assam. This Court upon hearing the counsels for the parties and relying on the order passed by the Apex Court rendered in CA No.11527/2014 disposed of the writ petition with the following directions:

“Accordingly, this Court is of the opinion that nothing survives for consideration as the authorities themselves have agreed to refund the aforesaid amount of Rs.93,158/- to the petitioner. However, the pensionary benefits/family pension of the petitioner will be based on the correct pay scale which the petitioner's husband would have been entitled as per rules.

Accordingly, present petition is disposed of with the above direction to the respondent authorities to refund the sum of Rs.93,158/- to the petitioner immediately and the petitioner will be continued to get the family pension on the basis of the correct pay scale to be worked out by the authorities as per rules, which exercise shall be completed as expeditiously as possible.

Till such period of re-fixation of the revision of pension of the petitioner, the petitioner would be entitled to get pension/family pension, which she is enjoying at this stage right now.”

The writ petitioner communicated the said order to the concerned respondent authorities by filing necessary representation.

In so far as the direction of this Court in respect of the refund directed to be made to the petitioner is concerned, the same was effected by the Director of Pension by the order dated 30.04.2021. Since the second part of the order dated 26.11.2019 passed in WP© No.3369/2017 was not complied with, the present contempt petition has been filed alleging willful disobedience of non-compliance of the order dated 26.11.2019 passed by this Court in WP© No.3369/2017.

Notice in the matter was issued on 01.02.2022. Subsequently, the matter was listed before the Court and opportunity was granted to the respondent

authorities to obtain the required instructions.

Today when the matter is listed, Mr. C.S. Hazarika, learned Junior Government Advocate, Assam, has placed before the Court the order dated 23.12.2022 issued by the Director of Pension whereby, the family pension was revised and the order was passed for payment of revised pension in respect of late Hatem Ali Ahmed, a retired Assistant Teacher in PPO No.PPO/E/SP/4591. The learned counsel for the respondents submits that the order having been complied with, the contempt petition be closed.

Learned counsel for the petitioner submits that although the direction of this Court was issued on 26.11.2019 and the order stated to have been complied on the basis of the Office order is passed on 23.12.2022 by the Director of Pension, therefore, the petition may be closed but by imposing cost of litigation.

This Court is not inclined to accept such submission made by the learned counsel for the petitioner in view of the fact that this is a contempt jurisdiction and issues is between the Court and alleged contemnor being the respondents.

Considering the fact that the directions contained in the order dated 26.11.2019 passed in WP(C) No.3369/2017 stand complied with, this Court is of the view that the contempt petition can be closed.

This Contempt petition is hereby closed.

Notices, issued, are recalled.

Copy of the order dated 23.12.2022 passed by the Director of Pension is kept as a part of the record.

JUDGE

Comparing Assistant