

GAHC010016532023



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

Case No. : WP(C)/439/2023

BRISTI HAZARIKA
D/O- LT. SABITRI DEKA, R/O- VILL- BHUKTABARI, P.O. SIPAJHAR, DIST.-
DARRANG, PIN- 784145

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, THE PENSION
DEPTT., SACHIVALAYA, DISPUR, ASSAM, GHY-06

2:THE DIRECTOR OF PENSION
HOUSEFED COMPLEX
LAST GATE
DISPUR
GHY
ASSAM
PIN- 781006

3:THE FINANCE AND ACCOUNT OFFICER
DIRECTORATE OF PENSION
HOUSEFED COMPLEX
DISPUR
GHY-6

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DARRANG
MANGALDAI

6:THE TREASURY OFFICER
DARRANG TREASURY
DARRANG
MANGALDAI
ASSA

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

24.11.2023

Heard Mr. A. Sarma, learned counsel for the petitioner. Also heard Mr. B. Deuri, learned Junior Government Advocate; Mr. B. Talukdar, learned Standing Counsel, Education and Mr. A. Chaliha, learned Standing Counsel, Finance.

2. This writ petition has been filed by the petitioner aggrieved that the family pension payable to the petitioner was not released with effect from 09.08.2018. The mother of the petitioner was employed as a Primary Teacher in Garakamara Primary School, Sipajhar, Darrang who expired on 08.07.2017. The petitioner's late mother was working as a Primary Teacher at the time of her demise. The petitioner furnished the necessary documents and family pension was released to her. However, with effect from 09.08.2018, the same was stopped on the ground that she has attained the age of 21 years. It is the submission of the learned counsel for the petitioner that in terms of the amendments carried out in the Assam Pension Rules, 1969, the words "unmarried minor daughters" has been substituted with the words "unmarried dependent daughters". The learned counsel for the petitioner referring to these amendments submits that the

petitioner got married on 04.02.2021 and therefore until she got married she is entitled to get the family pension in terms of the Assam Pension Rules. The same having not been granted, the petitioner is before this Court.

3. Mr. B Deuri has placed before the Court a copy of the communication dated 10th May, 2023 issued by the Director of Pension, Assam to the Deputy Inspector of School, Mangaldoi, Assam in connection with communications exchange in respect of the present writ petition.

4. In terms of the said communication, a copy of which is placed before the Court, it is clear that as per Pension and Public Grievance Department, Dispur vide Notification No. PPG(G) 10/2013/49 dated 09.08.2018, family pension should be allowed to continue beyond 21 years of age to an unmarried dependent daughter of a Government Servant subject to fulfillment of the conditions mentioned in the letter.

5. Upon careful perusal of the communication placed before this Court as also the pleadings available on record and upon due consideration of the submissions made by the learned counsels, this Court is of the view that the writ petition ought to be allowed inasmuch as there is no dispute that in view of the statements made by the petitioner which are not disputed by the petitioner that she got married on 04.02.2021 and also taking into consideration the amendments carried out to the Assam Pension Rules 1969, it is evident that the petitioner would be entitled to get family pension beyond the age of 21 years so long she continues to be an "*unmarried dependent daughter*". These particulars including her marriage and employment status, age certificate therefore are required to be examined by the Department. Upon such examination if it is found that the balance of family pension is required to be released to the

petitioner then the Department will release the same at an early date.

6. In view of the above discussion, this Court is of the considered view that the writ petition can be closed with a liberty to the petitioner to file necessary application before the authorities in terms of the communication dated 10th of May 2023 accompanied by all necessary documents before the Director of Pension. The Director of Pension will thereafter examine the claim of the petitioner and pass necessary orders in terms of the amendments carried out to the Assam Pension Rules read with the PPG Department certification dated 09.08.2018.

7. It is made clear that if the petitioner is found to have been married on the date as submitted, which is 04.02.2021, and if she was found to be a dependent daughter on her late mother then she will be entitled to get pension family pension till the date of her marriage.

8. This exercise as directed shall be completed within a period of 60 days from the date of the receipt of the representation along with a certified copy of this order.

9. The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant