

GAHC010033512023



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

Case No. : WP(C)/974/2023

SMTI. RUMI GOSWAMI
W/O PRANAB KUMAR GOSWAMI, R/O KALIPUR, RIVER SIDE, P.O.-
BHARALUMUKH, P.S.-BHARALUMUKH, GUWAHATI-09, DIST-KAMRUP (M),
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, CULTURAL AFFAIRS DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-06

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06

4:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29

5:THE DIRECTOR (I/C)
DIRECTORATE OF LIBRARY SERVICES
ASSAM
GUWAHATI-0

Advocate for the Petitioner : MR S C DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 13.03.2023

Heard Mr. S. C. Das, the learned counsel appearing on behalf of the petitioner and Mr. D. Borah, the learned Standing counsel appearing on behalf of the respondent Nos. 1, 2 and 5. I have also heard Mr. R. Borpujari, the learned Standing counsel appearing on behalf of the respondent No.3 and Mr. A. Hasan, the learned Standing counsel appearing on behalf of the respondent No.4.

2. The instant writ petition is taken up for disposal at the motion stage itself.

3. The case of the petitioner herein is that she has retired on 28.02.2022 on superannuation. At the time of her retirement, she was serving as the Deputy Director (Director In-charge), Directorate of Library Services, Assam, Ambari, Guwahati. All the documents for grant of pension were thereupon forwarded to the Directorate of Pension by the Department wherein the petitioner was working. However, it appears that after her retirement, on 28.09.2022, an FIR was lodged by the Director, Library Services before the Officer In-charge, Panbazar Police Station alleging that upon the directions issued by the Departmental Minister as well as the Additional Secretary to the Government of Assam, Department of Cultural Affairs, the said FIR has been lodged against the irregularities and corruption committed by the petitioner.

4. It is the case of the petitioner that in view of the said FIR, which have been subsequently registered as Panbazar P.S. Case No.263/2022 under Sections 406/409 of the Indian Penal Code, the petitioner has not been paid her provisional pension. It is the further case of the petitioner that as on date to her knowledge, the charge sheet has also not been submitted.

5. The instant writ petition therefore has been filed for a direction upon the respondent authorities to pay the provisional pension to the petitioner in terms with Rule 22 of the Assam Services (Pension) Rules, 1969 as well as the Office Memorandum dated 21.06.2012. The petitioner has also prayed by way of the instant application for release of pending 1 (one) month regular salary.

6. I have also heard Mr. D. Borah, the learned Standing counsel appearing on behalf of the respondent Nos. 1, 2 and 5 who submits that in view of the Rule 22 of the Assam Services (Pension) Rules, 1969 as well as the Office Memorandum dated 21.06.2012, the petitioner is entitled to the provisional pension. He however submits that there is no mention in the writ petition as to for which month the petitioner had not been paid her arrear salary. There is also no representation enclosed to the instant petition that the petitioner had represented before the authority for the arrear salary.

7. Upon hearing the learned counsels for the parties, this Court disposes of the writ petition with a direction to the respondent authorities to forthwith release the provisional pension of the petitioner as it is the mandate of the Rule 22 of the Assam Services (Pension) Rules, 1969 as well as the Office Memorandum dated 21.06.2012 which categorically states that immediately upon retirement, the Retired Government employee is entitled to the provisional pension.

8. This Court further taking into account that there is no mention or details given as regards the arrear salary, grants liberty to the petitioner to submit a representation before the respondent authority giving details as regards for which month the arrear salary had not been paid and the authorities upon making necessary verification and taking into account the entitlement shall do the needful in that regard.

9. With the above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant