

GAHC010062012018



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

Case No. : WP(C)/1903/2018

SUNITA KUMARI
D/O. LT. SATYA DEO CHOUHAN, HOUSE NO. 16, NAWAIBIL NO. 5, P.O.
LAMSAKHANG, DISTRICT- KARBI ANGLONG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE INSPECTOR OF SCHOOLS

DIPHU
KARBI ANGLONG
ASSAM-782460

4:THE DIRECTOR OF PENSION
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-06

5:THE KARBI ANGLONG DISTRICT AUTONOMOUS COUNCIL
DIPHU
ASSAM-782460

6:THE HEADMASTER
ARB HIGH SCHOOL
NAWABIL
DIPHU
KARBI ANGLONG
ASSAM-782460

7:SMTI. ASHA DEVI
W/O. LATE SATYA DEO CHAUHAN
R/O. LAMSAKHANG BAZAR
P.O. AND P.S. KHERONI
DIST. WEST KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR. MD S HOQUE

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29-03-2023

Heard Mr. S. Hoque, learned counsel for the petitioner as well as Mr. J.C. Chutia, learned standing counsel for the KAAC appearing for the respondent nos.3, 5 and 6. Mr. U. Sarma, learned standing counsel for the Secondary Education Department appearing for the respondent no.1 and Mr. G. Bokolial, learned Govt. Advocate appears for the respondent no.4. None appears on call for the respondent no.7.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction upon the respondent authorities to take immediate steps for releasing the legitimate family pension w.e.f. 23.01.2016 along with other retirement benefits and leave salary, GIS, GPF in respect of her deceased father namely, Late Satya Deo Chauhan.

3. The learned counsel for the petitioner has submitted that her father late Satya Deo Chauhan was appointed as Assistant Teacher in Adarsha Rashtrabhasa High School on 15.04.1984 and that his service was provincialised w.e.f. 01.02.1991 while serving as an Assistant teacher, the father of the petitioner died-in-harness on 22.01.2016. Initially the petitioner as well as her brother had approached the Inspector of Schools, Diphu as well as the Head master of the Adarsha Rashtrabhasa High School for claiming family pension and other benefits like leave salary, GPR, GIS etc. But as such receivables are not sanctioned, the petitioner, claiming to be an unmarried daughter of late Satya Deo Chauhan, has filed this petition claiming family pension and other service benefits of her late father.

4. It is also submitted that pursuant to the order of this Court dated 01.02.2023, the petitioner had approached the Office of the Inspector of Schools, Diphu. It is submitted that although the petitioner had gone to the office of the Inspector of Schools, Diphu, but she came to know from the concerned school that the service book of her father has been misplaced or lost. It is submitted that the petitioner was asked to file an FIR about the loss of service book and in this connection it is submitted that as the petitioner is not in custody of the service book of her deceased father, she did not file an FIR for lost of the service book. It is also submitted that the respondent no.7 had claimed herself to be the wife of late Satya Deo Chauhan and on coming to know that the respondent no.7 is also claiming family pension and other receivables of her husband, the respondent no.7 was impleaded by order dated 26.11.2018 and she contested the writ petition by filing an affidavit-in-

opposition. But however, in course of the proceeding the respondent no.7 has expired and the learned counsel for the respondent no.7 on coming to know about the death of the respondent no.7 had stopped appearing in the matter.

5. The learned standing counsel for the KAAC had referred to the statements made in the affidavit-in-opposition and has submitted that in this case the petitioner has produced a birth certificate disclosing her date of birth to be 23.10.1996 whereas in the affidavit-in-opposition of the respondent no.7. two school certificates has been annexed which discloses the date of birth of the petitioner is 03.12.2003 and 09.12.1995 respectively.

6. It is also submitted that both petitioner as well as the respondent no.7 have separately claimed the financial benefit and family pension of the deceased with other receivables. However, the petitioner had submitted their next-of-kin certificate issued on 08.04.2016 by the Deputy Commissioner, West Karbi Anglong and the respondent no.7 also submitted her next-of-kin certificate issued on 11.07.2016 showing her to be the widow of the deceased. However, the subsequent certificate dated 11.07.2016 was cancelled by the Deputy Commissioner, Karbi Anglong, Diphu and thereafter the respondent no.7 submitted another next-of-kin certificate issued on 04.04.2017 by the Deputy Commissioner, West Karbi Anglong in which both the petitioner and the respondent no.7 were shown to be the next-of-kin along with the brother of the petitioner, namely, Pramod Kumar Chauhan. As both the petitioner as well as respondent no.7 were separately claiming to be the legitimate heir of Late Satya Deo Chauhan, both of them were asked to produce succession certificate which was not furnished.

7. It is also submitted that by a letter dated 11.11.2022, the Headmaster of Adarsha Rashtrabhasa High School had informed the Inspector of Schools, Karbi Anglong, Diphu that the brother of the petitioner had produced a death certificate of the respondent no.7 showing her to have died on 23.07.2022. However, in the said certificate the name of the husband of the respondent no.7 is mentioned as Prithvi Raj Chauhan.

8. Accordingly, the Inspector of Schools had directed the petitioner on 11.11.2022 to submit all the relevant papers for processing the pension papers, but as documents have not been submitted, the pension papers could not be processed and sent to the competent authority.

9. In the present case in hand, the Court finds that not only the service book of the father of the petitioner is reportedly lost, but the materials available in this case discloses three different dates of birth of the petitioner, as already indicated above. The brother of the petitioner has produced a death certificate of the respondent no.7 showing that the name of husband of the respondent no.7 is different. Taking note of the fact that the petitioner as well as the respondent no.7 has also been contesting their respective claim of financial benefits including family pension and another retiral benefits like GIS, etc. claiming to be the legal heir of late Satya Deo Chauhan, production of a death certificate of the respondent no.7 with a different husband's name is indicative of the fact that the dispute and/or claim towards benefit arising out of the death of late Satya Deo Chauhan is not one which can be adjudicated effectively in this writ petition filed under Article 226 of the Constitution of India. Therefore,

the Court is inclined to close this writ petition in view of the disputed facts. However, the Court is inclined to grant three options to the petitioner, viz. (1) to approach the competent Civil Court having jurisdiction to have a declaration in her favour, (2) to obtain an order of revocation of the succession certificate of the respondent no.7, (3) the petitioner is alternatively at liberty to approach the office of the Inspector of Schools at Karbi Anglong District Circle, Diphu and produce all the relevant documents, as and when required, to enable the said authority to arrive at a decision.

10. It is also provided that if the Inspector of Schools finds that the concerned Adarsha Rashtrabhasa High School, Karbi Anglong has lost the service book of the father of the petitioner, the said authority would direct the Headmaster of the school to take appropriate steps if the said document is lost from the school's custody and take approval from the competent authority to re-construct the service book so as to take appropriate decision on the claim of the petitioner vis-a-vis the respondent no.7 for the entitlements like family pension, including GPF, GIS, leave salary, etc on account of Late Satya Deo Chauhan.

11. Having noted that this writ petition is pending since 28.03.2018 in the event the petitioner approaches the Inspector of Schools, the said authority shall expeditiously deal with the matter preferably within the outer period of 3(three) months from the date of re-construction of the service book of the petitioner or from the date when the order of competent Court is placed before him.

12. The writ petition stands disposed of with observations as indicated above.

JUDGE

Comparing Assistant