

GAHC010076092022



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

Case No. : WP(C)/2700/2022

AMINA BEGUM
W/O LATE MAJNUR ALI, R/O VILL- BORDAMPUR, P.O.-DAMPUR, P.S.-HAJO,
DIST-KAMRUP(R), ASSAM, PIN-781102

VERSUS

THE STATE OF ASSAM AND 4 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF ASSAM, PUBLIC WORKS DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT
CHANDMARI
GUWAHATI-781003

3:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
SOUTH KAMRUP TERRITORIAL ROAD DIVISION
MIRZA
PALASHBARI
DIST-KAMRUP
ASSAM

4:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029

5:THE TREASURY OFFICER
KAMRUP(M)
GUWAHATI

ASSA

Advocate for the Petitioner : MS. S KANUNGOE

Advocate for the Respondent : SC, PWD

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 15.05.2023

Heard Ms. S. Kanungoe, the learned counsel appearing on behalf of the petitioner and Mr. Rahul Dhar, the learned Standing counsel appearing on behalf of the respondent Nos. 1, 2 and 3. I have also heard Mr. S. K. Medhi, the learned Standing appearing on behalf of the respondent No.4 and Mr. B. Gogoi, the learned Standing counsel appearing on behalf of the Finance Department.

2. From a perusal of the materials on record, it is apparent that the husband of the petitioner Late Majnur Ali was initially engaged as MR Labour on 26.12.1992 but he was later on brought under the regular establishment w.e.f. 22.07.2005. The husband of the petitioner expired on 29.11.2018.

3. A perusal of the affidavit filed by the respondent Nos. 3 i.e. the Executive Engineer, PWD reveals from paragraph No.4 that the total period of engagement of the husband of the petitioner was 25 years 11 moths 3 days but 6 years was deducted and thereby the qualifying service of the husband of the petitioner was taken as 19 years 11 months 3 days. On the ground that the husband of the petitioner did not complete the net qualifying service of 20 years, the Office of the Accountant General (A&E) did not authorize DCRG to the petitioner as per the rule.

4. It further appears that as regards the GPF, on account of some lapses on the part of the office dealing with the matter, the proposal for withdrawal of the final GPF was not submitted to the Accountant General, Assam in time. However, the said proposal has been submitted on 29.12.2022 and it has been mentioned in the said affidavit-in-opposition that it is expected that the General Provident Fund (GPF) amount would be paid to the petitioner at an early date. It further appears from a perusal of the writ petition that the claim of the petitioner is for release of Death cum Retirement Gratuity benefits to the petitioner as well as for directing the respondent authorities to release the GPF to the petitioner. So far as the General Provident Fund (GPF) entitlement, it appears from the affidavit-in-opposition that the same is under process. However, as regards the Death cum Retirement Gratuity benefits, the same has been denied to the petitioner on the ground that the petitioner's husband did not have 20 years of service after deducting 6 years.

5. The learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to the judgment of the Coordinate Bench in the case of ***Sanjita Roy & Others Vs. State of Assam and Others*** reported in **2019 (2) GLT 805** wherein it was held by this Court that the deduction of 6 years or for that matter any period to calculate the 20 years of continuous service did not appear to be reasonable. It was further held that the State should not make further classification of Muster Roll Workers who have completed 20 years of continuous service by introducing the condition of deduction of 6 years of casual service. Taking into account the said judgment of the Coordinate Bench of this Court in the case of ***Sanjita Roy and Others (supra)***, this Court also holds that the deduction of 6 years so made by the respondent authorities thereby depriving the petitioner from Death cum Retirement Gratuity benefits for not

completing 20 years is illegal, arbitrary and contrary to the law laid down by this Court in the case of ***Sanjita Roy and Others (supra)***.

6. Accordingly, this Court therefore disposes of this instant writ petition with a direction to the respondent authorities to pay the Death cum Retirement Gratuity benefits to the petitioner as well as also complete the formalities as regards the release of the GPF to the petitioner. The same be done within a period from 3 (three) months from the date a certified copy of this order is served upon the respondent Nos. 1, 2 and 3 respectively.

7. With above, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant