

GAHC010101652023



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

Case No. : WP(C)/2801/2023

AYESA KHATUN
W/O- LATE MOFIZUDDIN,
VILL- BATADRAVA BARBHETI,
P.O- BARBHETI,
P.S- BATADRAVA, DIST- NAGAON, ASSAM, PIN-782122

VERSUS

THE STATE OF ASSAM AND 3 ORS.
THROUGH THE SECRETARY TO THE GOVERNMENT OF ASSAM,
ELEMENTARY EDUCATION DEPARTMEN, T
DISPUR, GUWAHATI-06

2:THE COMMISSIONER
OF FINANCE
ASSAM
DISPUR
GUWAHATI-06

3:THE ACCOUNTANT GENERAL
ASSAM
BELTOLA
GUWAHATI-28

4:THE DIRECTOR OF PENSIONS
ASSAM
DISPUR
GUWAHATI-0

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 22-11-2023

Heard Mr. MH Ahmed, learned counsel for the petitioner as well as Mr. Mr. SK Medhi, learned standing counsel for the Accountant General and Mr. PN Sarma, learned standing counsel for the Elementary Education department. Mr. B. Gogoi, learned standing counsel appears for the Finance Department.

2. By this writ petition the petitioner is seeking a direction for release of family pension payable to the petitioner as the widow of one Mofizuddin who was employed as a Head teacher of Dhania Bheti Colony Basti Balak Muktab School under Batadrava Elementary Education Block and who had superannuated from service on 31.12.2005.

3. The petitioner's husband expired on 17.10.2011. In the Next-of-Kin certificate dated 07.09.2022 the name of the petitioner is shown in the Sl. No.1. The husband of the petitioner had married for the second time. However, the second wife expired subsequently. As on date, the petitioner is the first and the only surviving widow of late Mofizuddin.

4. It is the grievance of the petitioner that the application filed by the petitioner before the Director of Pension was not accepted by the Director of Pension. A copy of which is enclosed to this writ petition at Annexure-7.

5. It is submitted that the petitioner is entitled for family pension under the Assam Pension Rules as her husband was employed under the Govt. and who had rendered services till superannuation. The Court had issued notice on 22.05.2023 directing the respondents to furnish instructions as to why the pension liable to the petitioner has not been paid. Several

opportunities thereafter were granted to the respondents but no instructions was forthcoming from the respondents.

6. Today when the matter is called up the learned standing counsel for the Department is yet not posted with the required instructions. Considering, the fact that no instructions are forthcoming from the respondents, this Court considers it appropriate to dispose of the writ petition permitting the petitioner to address a fresh representation before the Secretary, of Elementary Education. The Secretary, of Elementary Education will consider the same and pass appropriate orders thereon so that the family pension prayed for by the petitioner is released at the earliest. The representation should be filed within 1(one) week from the date of receipt of certified copy of this order. The Secretary, of Elementary Education will dispose of the representation within 30(thirty) days from the date of receipt of the application along with a certified copy of this order.

7. A copy of this writ petition along with the enclosures may also be filed before the Secretary, of Elementary Education along with the representation.

8. Upon disposal of the representation a speaking order to be passed by the Secretary, of Elementary Education. A copy thereof be served on the petitioner.

9. Let the directions be carried out as indicated above within the time specified.

10. The writ petition stands disposed of.

JUDGE

Comparing Assistant