

GAHC010117692023



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

**Case No. : WP(C)/3192/2023**

SAILAJA NANDA KHANIKAR  
S/O- LATE TULSHI NATH KHANIKAR,  
R/O- FLAT NO. 03, MEGHAMALLAR APARTMENT,  
BLOCK- B-II, SEWALIPATH,  
HATIGAON, GUWAHATI, P.S.- HATIGAON,  
DIST- KAMRUP(M).

VERSUS

THE STATE OF ASSAM AND 7 ORS  
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF  
ASSAM,  
HOME DEPARTMENT, DISPUR,  
GUWAHATI-06, DIST.- KAMRUP(M).

2:THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM  
FINANCE (PAY RESEARCH UNIT) DEPARTMENT  
DISPUR  
GUWAHATI-06

DIST.- KAMRUP(M).

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
PENSION AND PUBLIC GRIEVANCE DEPARTMENT  
HOUSE-FED COMPLEX  
DISPUR

GUWAHATI-06.

4:DIRECTOR GENERAL OF POLICE  
ASSAM  
ULUBARI

GUWAHATI-07  
ASSAM.

5:THE INSPECTOR GENERAL OF POLICE (ADMINISTRATION)  
ASSAM  
GUWAHATI-07. DIST.- KAMRUP(M)

ASSAM.

6:THE COMMISSIONER OF POLICE  
GUWAHATI POLICE COMMISSIONERATE  
DIST. KAMRUP(M).

7:THE DEPUTY COMMISSIONER OF POLICE (ADMINISTRATION)  
GUWAHATI POLICE COMMISSIONERATE  
DIST.- KAMRUP(M).

8:THE ACCOUNTANT GENERAL ( A AND E)  
MAIDAMGAON  
BELTOLA

GUWAHATI- 781029  
DIST.- KAMRUP(M)

**Advocate for the Petitioner : MR. A DEKA**

**Advocate for the Respondent : GA, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 19-06-2023**

Heard Mr. A Deka, learned counsel for the petitioner. Also heard Mr. S.S. Roy, learned Government Advocate.

Pursuant to order dated 05.06.2023 Mr. S.S. Roy, learned Government Advocate has submitted that the proposal of pension returned by Accountant General, A&E to the employer is being sent with the following observations:

*“On scrutiny of the service book and initial pay statement, it is observed that the pay fixation done under ROP Rules 2017 affective from 01.04.2016 for the post of Stenographer taken the grade pay of Rs.8700/-. Under ROP Rules 2017, grade pay of Stenographer is Rs.7400/- which has been modified to Rs.8,000/-. As such the fixation of pay has worked out with the grade pay of Rs.8700/- instead of Rs.8000/- may be examined and clarified with supporting documents. The re-fixation of pay may be noted accordingly in service book.*

*The pension case is to be resubmitted to this office only after the waiver of recovery with the concurrence of PPG department if recoverable amount is up to Rs.1,00,000/- (Rupees one lakh) and if beyond Rs.1,00,000/- (Rupees one lakh) then the express approval of finance department is to be obtained in terms of finance department OM No.Fin(EC-III) 1808/2018/2 dated 14.06.2019. However, if the pension papers are resubmitted without enclosing the waiving order then this office shall consider that the department agreed towards recover with consent of the pensioner and accordingly this office will settle the pension case.”*

Mr. S.S Roy, learned counsel submits that the employer has furnished a written instruction to him that due to inadvertent mistake the proposal was wrongly sent and there shall be no recovery proposed as such calculation was done not for the fault of the petitioner.

The instructions so received and forwarded to Mr. S.S. Roy is quoted herein below:

*“It is stated that pursuance to the Assam Police*

*Headquarters letter No.E/III-98/2015/Pt-II/108 dated 25.04.2019 and Govt. Memo No.FPC.58/2017/53(B/S) dated 05.04.2019 of Finance (Pay Research Unit) Dept. Govt. of Assam, the initial pay and the dated of next increment of the petitioner was provisionally fixed in the revised scale of Pay Band-II, Rs.14,000/- + Rs.49,000/- + Grade Pay Rs.8700/- under ROP, 2017, subject to the final fixation by the A.G. Assam. Accordingly, increment of the petitioner is fixed as follows:*

*“Pay fixed as on 01/04/2019 @ Rs.55,890/- (Pay Rs.47,190/- + GP Rs.8700/-) instead of Rs.55,190/- DNI on 01.07.2016.*

*Pay raised from Rs.55,890/- to Rs.57,570/- w.e.f 01.07.2016 instead of Rs.56,850/-*

*Pay raised from Rs.57,570/- to Rs.59,300/- w.e.f 01.07.2017 instead of Rs.56,850/-*

*Pay raised from Rs.59,300/- to Rs.61,080 w.e.f., 01.07.2018 instead of Rs.56,850/- with DNI on 01.07.2019.*

*Copy of the order dated 13.05.2017 along with connected documents are annexed herewith and marked as Annexure – III (colly).*

*It is stated that pension papers along with service book and connected records was received from the Sr. Account office of the Accountant General (A&E), Assam with an instruction for necessary correction of pay and recorded in Service book is under progress. The same will be submitted to the office of the Accountant General (A & E), Assam after making necessary rectification in service book with approval and order from the appropriate authority to finalize the pension of the petitioner.*

*I, therefore, request you kindly to apprise the Hon’ble Court about the steps taken into the matter.”*

In view of such consensus, the present writ petition is

disposed of with a direction to the Deputy Commissioner of Police (Admn), Guwahati, Assam to resubmit the pension proposal of the petitioner before the Accountant General, A&E within 4 (four) weeks from today.

It is provided that no recovery shall be made from the pension of the petitioner as well as provision in the proposal shall be sent to the Accountant General, A&E waiving such recovery.

Thereafter, the Accountant General, A&E may shall complete the proposal within 4 (four) weeks thereafter.

In view of the aforesaid, the writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**