

GAHC010154402022



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

Case No. : WP(C)/5089/2022

BEAUTY BORAH
(JUNIOR ENGINEER GRADE-I)
W/O LATE RAJIV KUMAR BORAH
R/O PANJABARI
BAGHARBARI
P.O.-PANJABARI
P.S.-DISPUR
DIST-KAMRUP(M)
ASSAM
PIN-781037

VERSUS

THE ASSAM STATE WAREHOUSING CORPORATION AND 2 ORS.
TO BE REPRESENTED BY MANAGING DIRECTOR OF THE CORPORATION
PANNYAGAR BHAWAN
AMARJYOTI PATH
CHRISTIANBASTI
GUWAHATI-5

2:MANAGING DIRECTOR
ASSAM STATE WAREHOUSING CORPORATION (ASWC)
PANNYAGAR BHAWAN
AMARJYOTI PATH
CHRISTIANBASTI
GUWAHATI-5

3:THE STATE OF ASSAM
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM
DEPARTMENT OF CO-OPERATION
DISPUR
GUWAHATI-781006

Advocate for : MR. M H RAJBARBHUIYAN

Advocate for : GA

ASSAM appearing for THE ASSAM STATE WAREHOUSING CORPORATION
AND 2 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 20.02.2023

Heard Mr. M. H. Rajbarbhuiyan, the learned counsel appearing on behalf of the petitioner and Mr. K. L. Gupta, the learned Standing counsel appearing on behalf of the Assam State Warehousing Corporation and Ms. M. D. Borah, the learned Standing counsel appearing on behalf of the Department of Co-operation.

2. The instant writ petition has been filed by the petitioner claiming retirement benefits i.e. CPF Amount of Rs. 9,61,455/-; Gratuity amount of Rs.10,00,000/-; leave encashment of Rs.4,27,512/-; arrear pay and allowances of Rs.63,000/- for the period from 1996 to 1999 i.e. total amount of Rs.24,51,967/-. The respondent Nos. 1 and 2 have filed an affidavit stating inter alia that the total retirement benefit of the petitioner was Rs.34,04,568/- and out of which the Corporation has already paid an amount of Rs.19,50,207/- and an amount of Rs.14,54,361/- is outstanding. The chart in respect to the payment so made and in respect to which it is payable can be seen from Annexure-A to the affidavit-in-opposition filed by the respondent Nos. 1 and 2. The said chart is reproduced hereinbelow:

SI No.	Particulars	Liability (in Rs.)	Paid (in Rs.)	Date	Balance (in Rs.)
1	CPF	19,20,207/-	9,58,752/-	30-11-2021	Nil
			9,61,455/-	23.09.2022	
2	Gratuity	10,00,000/-	Nil	-	10,00,000/-
3	Leave encashment	4,37,512/-	30,000/-	Monthly installment of Rs.5,000/-	4,07,512/-
4	Arrear Pay & Allowances	46,849/-	Nil	-	46,849/-
Total		34,04,568/-	19,50,207/-	-	14,54,361/-

3. It appears from the said chart that on account of gratuity as well as on account of arrear pay and allowances, the petitioner has not been paid a single penny. In respect to leave encashment, out of the total of Rs.4,37,512/- payable to the petitioner, only 30,000/- have been paid. It further appears that as on date, the respondent Corporation is liable to pay an amount of Rs.14,54,361/- and out of the said amount, an amount of Rs.10,00,000/- pertains to payment on account of gratuity.

4. The learned counsel appearing on behalf of the respondent Corporation submits that the financial position of the respondent Corporation is in dire straits and the respondent Corporation cannot pay the said amount at a go, for which it is submitted that the respondent Corporation may be given a period of one year from the date of the instant order so that the respondent Corporation can pay the entire outstanding amount of Rs.14,54,361/- in equal monthly

installments to the petitioner.

5. On the other hand, Mr. M. H. Rajbarbhuiyan, the learned counsel appearing on behalf of the petitioner submits that it is the mandate of Section 7(3A) of the Payment of Gratuity Act, 1972 that simple interest is payable from the date on which the gratuity becomes payable to the date on which it is paid. He therefore submits that the petitioner have a statutory right to get interest in terms with the Payment of Gratuity Act, 1972 at such rate not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as the Government may, by notification specify. The learned counsel therefore submits that the interest is to be paid from the date the gratuity becomes payable.

6. On the other hand, Mr. K. L. Gupta, the learned Standing counsel appearing on behalf of the Assam State Warehousing Corporation submits that it would be too onerous upon the respondent Corporation to pay the interest on the payment of gratuity from the date it became due.

7. Upon hearing the learned counsels for the parties on the question of interest, both the counsels upon instructions have duly agreed that the petitioner as well as the respondents would have no objection if @7% interest which is the present interest payable for long term deposits is awarded on the entire amount of Rs.14,54,361/- from the date of the instant order and the said payment be made in equal monthly installments within a period of one year.

8. Taking into account the consensus arrived at by the learned counsels for the parties, this Court therefore directs the Assam State Warehousing Corporation i.e. the respondent Nos. 1 and 2 to re-compute the entitlement of

the petitioner by applying @7% interest on reducing balance and pay the same in equal monthly installments to the petitioner w.e.f. 01.03.2023. The entire amount has to be liquidated on or before 29.02.2024.

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

JUDGE

Comparing Assistant