

GAHC010160712021



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

Case No. : WP(C)/5543/2021

BENU BALA
W/O LATE MONESWAR BASUMATARY (CONSTABLE BORDER
ORGANIZATION) R/O VILL. DHALAPARA, P.O. GERUKABARI, NEAR NH
TOLL GATE DHALAPARA TOLL PLAZA, P.S. BIJNI, DIST. CHIRANG, ASSAM
783390

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY ITS COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, HOME DEPTT., DISPUR 781006

2:THE STATE OF ASSAM

REPRESENTED BY ITS COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
FINANCE DEPTT.
DISPUR GUWAHATI 781006

3:THE STATE OF ASSAM

REPRESENTED BY ITS COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
PENSION AND PUBLIC GRIEVANCES DEPTT.
BLOCK - D
2ND FLOOR
JANATA BHAWAN (CIVIL)
DISPUR
GUWAHATI 781006

4:THE ACCOUNTANT GENERAL
ASSAM

OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (A AND E) ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI 781029

5:THE DIRECTOR

DIRECTORATE OF PENSION OFFICE OF THE DIST. OF PENSION
ASSAM HOUSEFED COMPLEX
DISPUR
GUWAHATI 781006

6:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (BORDER)
HEAD QUARTERS (B) ASSAM
BHANGAGARH
SRIMANTAPUR
GUWAHATI 781032

7:THE SUPERINTENDENT OF POLICE (BORDER)
BONGAIGAON DIST.
BONGAIGAON
ASSAM (NOW COMMISSIONER OF POLICE)

8:THE DEPUTY COMMISSIONER OF POLICE (BORDER)
ASSAM
SRIMANTAPUR
P.O. BHANGAGARH
GUWAHATI 78103

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

30.06.2023

Heard Mr. H. Gupta, the learned counsel for the petitioner and Mr. D. Borah, the learned counsel appearing on behalf of the respondent Nos.1,

3, 4, 5, 6, 7 & 8 as well as Mr. A. Chaliha, the learned counsel appearing on behalf of the respondent No.2. Also heard Ms. J. Das, the learned counsel appearing on behalf of the respondent No.4.

2. The case of the petitioner herein is that the petitioner is the wife of one Moneswar Basumatary (since deceased). During the lifetime of the petitioner's husband, a PPO No.9042411285439 was issued. However, the husband of the petitioner did not receive a single penny on account of pension and expired on 14.09.2020. The petitioner thereupon has been running from pillar to posts for the arrear pension as well as family pension to which the petitioner is entitled to. However, the respondent authorities have not ventilated the grievances of the petitioner for which the petitioner has approached this Court by filing the instant writ petition.

3. This Court vide on order dated 01.03.2023 passed a detailed order thereby directing the counsel appearing on behalf of the Department of Home as well as the Director of Pension as to why the petitioner would not be entitled to arrear pension to which her husband was entitled to as well as also to the family pension. No meaningful instructions were obtained on the earlier dates.

4. Today, the learned counsel appearing on behalf of the Home Department has placed an instruction issued by the Superintendent of Police (B), Assam dated 28.06.2023. In the said instruction, it has been mentioned that as regards the granting of the proportionate pension to the husband of the petitioner, as per Government O.M. No. PPG (P)12/2019/1 dated 21.01.2019, the Office of the Special Director General of Police (Border), Assam had submitted the pension case in prescribed format in respect of the husband of the petitioner vide letter dated

21.06.2021 to the Additional Director General of Police (M&L), Assam, Guwahati. Subsequent thereto, the Accountant General (A & E), Assam has sanctioned his pension and issued PPO bearing No. 902411285439 vide Audit Encashment dated 08.04.2022 in respect to the husband of the petitioner. It has been further mentioned that the Service Gratuity had already been given to husband of the petitioner vide BOO No. 56 dated 12.01.2017. However, leave encashment would be paid to the petitioner shortly. It was also stated that it was only in view of the filing of the instant writ petition and the order being passed by this Court that the Office has come to know about the demise of the petitioner's husband. Subsequent thereto, the petitioner was communicated with the request to approach the Assam Police Border Headquarters vide Memo dated 17.03.2023 and the petitioner along with her elder son appeared before the Superintendent of Police (Border), Assam on 18.03.2023 and the formalities of pension have been initiated. Further to that, it has been mentioned that the family pension along with arrear will be given to the petitioner on getting necessary approval from the competent authority. The said instructions so placed is kept on record and marked with the letter "X".

5. Taking into account the above stand, this Court is of the opinion that the interest of justice would be met, if the instant writ petitions is disposed of passing consequential direction upon the concerned respondent authorities to complete the entire exercise so that the petitioner receives the leave encashment as well as arrear pension and the arrear family pension within a time frame.

6. Accordingly, this Court directs the respondent No.6 to take

appropriate steps so that the petitioner receives the leave encashment; arrear pension to which her husband would have otherwise been entitled to, (if not already paid); the arrear family pension to which the petitioner is entitled to as well as family pension henceforth within a period of 3 (three) months from the date a certified copy of the instant order is received upon the respondent No.6.

7. It is directed that the Office of the Account General (A&E), Assam shall do the needful so that the petitioner receives the payment as directed within the time frame.

8. A certified copy of the instant order shall also be submitted to the respondent No.4.

9. With the above observation and direction the instant petition stands disposed of.

JUDGE

Comparing Assistant