

GAHC010164452023



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

Case No. : WP(C)/4315/2023

BIJULI NATH
S/O- LATE JITESH CHANDRA NATH ,
R/O- RAJESWARPUR PART IV,
P.O- UMEDNAGAR,
DIST- HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT,
DISPUR, GHY-06

2:THE COMMISSIONER AND SECRETARY

TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GHY-06

3:THE DIRECTOR

OF SECONDARY EDUCATION DEPARTMENT
KAHILIPARA
GHY-19

4:THE DIRECTOR OF PENSION

ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-0

Advocate for the Petitioner : MR. J LASKAR

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22.08.2023

Heard Mr. J Laskar, learned counsel for the petitioner and Ms. H Terangpi, learned Standing counsel, Department of School (Secondary) Education, Assam for the respondent Nos. 1 & 3. Also heard Mr. P Nayak, learned Standing counsel, Finance Department, Assam for the respondent No. 2 as well as Mr. P Saikia, learned Government Advocate, Assam for the respondent No. 4.

2. Husband of the petitioner, namely, Jitesh Chandra Nath was a Grade-IV employee of P K Girls H.S. School, Lala who died in harness on 02.05.2017.

3. As per the records, the date of birth of the petitioner was 19.01.1963.

4. The State Government in its Finance (Esstt-A) Department vide No. FEG.28/2017/26 dated 14.09.2017 issued a Notification clarifying the Scheme for Compassionate Family Pension in lieu of Compassionate Appointment, in short called as Compassionate Family Pension (CFP) Scheme that came into force w.e.f. 01.04.2017.

5. The said CFP Scheme is not applicable for voluntary retirement/ resignation/any other

cases and "an employee dies-in-harness" is the sole criteria, where the cause of the death of the employee in harness can either be natural or un-natural.

6. As per the said CFP Scheme, 2017 the last pay drawn for the purpose of payment of Compassionate Family Pension is the last Basic Pay i.e., pay in the Pay Band plus Grade Pay.

7. Over and above, as per the said CFP Scheme, 2017, the Compassionate Family Pensioner will get the applicable Dearness Relief and other Relief as admissible under the Normal Family Pension.

8. The CFP Scheme, 2017 is fixed at 100% of the last pay drawn that will be revised periodically as and when Normal Pension/Family Pension are revised.

9. The said CFP Scheme, 2017 provides that on attaining the date of deemed Superannuation, the CFP will be converted into Normal Family Pension and that the Normal Family Pension shall be fixed at 50% of the CFP from the date of deemed Superannuation till 67 years of age of the deceased employee.

10. Clause 5.3 of the said CFP Scheme, 2017 provides that – where the employee dies before superannuation, the Family Pension equal to 100% of the last pay drawn by the deceased employee be paid for a period up to the date of deemed superannuation of the deceased employee i.e., the date on which the employee would have superannuated had he been alive. This would compensate the loss of family income to a large extent and fulfill the requirement of compassionate conditions arising out of the death of the serving employee, but to be entitled for such CFP Scheme, the Government Employee must complete minimum 1 (one) year of continuous service without break before death while in service.

11. Mr. P Saikia, learned Government Advocate, Assam during the deliberation of the matter, placed before the Court a copy of the Pension Pay Order issued under No. ADP/PPO/GPO/2017-18/050587 dated 14.09.2018 by the Directorate of Pension, Assam in favour of the petitioner, namely, Bijuli Nath, wife of late Jitesh Chandra Nath, expired Grade-IV employee for 100% share from Compassionate Family Pension @ Rs. 28010/- w.e.f. 03.05.2017 upto 31.01.2023 and thereafter Normal Family Pension @ Rs. 14010/- w.e.f. 01.02.2023 upto 31.01.2030 and @ Rs. 8410/- w.e.f. 01.02.2030 onwards.

12. In view of the above, as the Directorate of Pension, Assam have already issued the

Compassionate Family Pension as well as Pension to the petitioner on the death of her husband, Jitesh Chandra Nath, this writ petition accordingly stands disposed of.

13. Copy of the Pension Pay Order issued under No. ADP/PPO/GPO/2017-18/ 050587 dated 14.09.2018 by the Directorate of Pension, Assam placed before the Court by Mr. P Saikia, learned Government Advocate, Assam be kept as part of the record.

JUDGE

Comparing Assistant