

GAHC010165962022



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

Case No. : WP(C)/5463/2022

NAJIRA KHATUN
D/O. LT. ABDUL JALIL MIAH, VILL. ANANDANAGAR, BILASIPARA WARD
NO.1, P.O. AND P.S. BILASIPARA, DIST. DHUBRI, ASSAM, PIN-783348.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
TRANSPORT DEPTT., DISPUR, GHY.-06.

2:THE MANAGING DIRECTOR
ASTC
GUWAHATI
PALTANBAZAR
GHY.-01.

3:THE DIVISIONAL ENGINEER
GUWAHATI DIVISION OF ASSAM STATE TRANSPORT CORPORATION
GUWAHATI.

4:THE CHIEF PERSONNEL OFFICER CUM DEPUTY GENERAL MANAGER
ASTC
GUWAHATI
PALTANBAZAR
GHY.-01.

5:THE ACCOUNT OFFICER (ESTABLISHMENT)
ASTC GUWAHATI
PALTANPAZAR
GHY.-01.

6:THE STATION SUPERINTENDANT
ASTC

DHUBRI
ASSAM
P.O. AND DIST. DHUBRI
ASSAM PIN-783301.

7:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY.-06.

8:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GHY.-29.

9:THE TREASURY OFFICER
DHUBRI
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : SC, A S T C

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

13.02.2023

Heard Mr. H. R. Ahmed, the learned counsel for the petitioner and Ms. M. D. Borah, the learned counsel appearing on behalf of the respondent No.1. Also heard Mr. S. Sarma, the learned counsel appearing on behalf of the respondent Nos.2 to 6; MS. B. Swargiary, the learned counsel appearing on behalf of the respondent No.8 as well as Mr. R. Borpujari, the learned counsel appearing on behalf of the respondent No.9.

Taking into account the factual matrix, this Court has taken up the matter for disposal at the motion stage itself.

The fact of the instant case is that the petitioner claims to be a physically challenged unmarried dependant daughter of one Abdul Jalil Miah (since deceased). It has further been averred in the writ petition that the father of the petitioner Late Abdul Jalil Miah was serving as a Senior Conductor under Assam State Transport Corporation (ASTC). He expired on 10.12.1998 while in service. After his death, the mother of the petitioner approached the authority seeking corporation gratuity/leave salary/death-cum-retirement benefits and pension etc. Subsequent thereto, the respondent No.5 issued a letter dated 26.12.2003 to the respondent No.6 stating that on scrutiny it revealed that no case has been received by the Head Office relating to grant of corporation gratuity/family pension in favour of the mother of the petitioner and a request was made to submit the case as early as possible. By an order dated 06.03.2004, issued by the respondent No.6, an amount of Rs.17,742/- was sanctioned as unutilized earned leave in respect to the petitioner's father in favour of the petitioner's mother. However, before that amount could be disbursed, the mother of the petitioner expired on 14.07.2009. Accordingly, vide the letter dated 21.06.2013, the Station Superintendent, ASTC, Dhubri returned back three numbers of cheque issued in favour of the petitioner's mother and another person.

The petitioner herein claims to be an unmarried daughter of Late Abdul Jalil Miah, Senior Conductor, ASTC and in that regard enclosed a Next of Kin Certificate issued on 22.12.2022 by the Bilasipara Sub-Division Office, Dhubri wherein it has been shown that Late Abdul Jalil Miah had three sons and six daughters including the petitioner. There is no material on record however has been placed except the statement being made that the petitioner is an unmarried daughter.

It has been admitted at the bar that the Assam Services (Pension) Rules, 1969 is applicable to the employees who work under the ASTC and the family pension is also paid to the dependents in terms with Rule 143 of the Rules of

1969.

It is also relevant to take note of that Rule 143 (iii) of the Rules of 1969 specifically stipulates that at first the widow and thereupon the unmarried daughter and the minor children are entitled to pension and pensionary benefits. However, one aspect of the matter which this Court with the materials before this Court look into is as to whether the petitioner herein is an unmarried daughter of Late Abdul Jalil Miah or not.

In that view of the matter, this Court upon declaring that an unmarried daughter of an employee is entitled to family pension after the death of the surviving widow directs the respondent authorities to verify as to whether the petitioner is the unmarried daughter of the employee, i.e. Late Abdul Jalil Miah.

Accordingly, the instant writ petition stands disposed of with a direction to the concerned respondent authorities and more particularly the respondent No.2 to verify as to whether the petitioner herein is the unmarried daughter of Late Abdul Jalil Miah. The petitioner herein is directed to place the necessary materials before the concerned respondent authorities which would evidence that she is unmarried daughter of Late Abdul Jalil Miah.

The respondent authorities more, particularly the respondent No.2 shall complete the said exercise within a period of 45 (forty five) days from the date the petitioner submits the necessary documents as well as the certified copy of the instant order.

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

JUDGE

Comparing Assistant