

GAHC010307252019



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

Cont.Cas(C)/417/2021

PRABHAWATI PAYENG MILI
W/O LATE PRABHAT MILI
R/O BATIMARI
P.O. AND P.S. KAMALABARI
DIST. MAJULI
ASSAM
PIN 785106

VERSUS

1. DR. BIJOYA CHOUDHURY AND 7 ORS
DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

2:PRITHWISH KUMAR CHAKI
DIRECTOR OF PENSION
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI 06

3:GULKARI LAL
ACCOUNTANT GENERAL (A AND E) MAIDAM GAON
KRISHNAPUR
BELTOLA
GUWAHATI 28

4:BIKRAM KAIRI
DEPUTY COMMISSIONER
MAJULI
DIST. MAJULI
ASSAM.

5:NARAHARI GOHAIN

DEPUTY INSPECTOR OF SCHOOLS
KAMALABARI
MAJULI
ASSAM
PIN 785106
6:JAYDEV RAJAT

CIRCLE OFFICER KAMALABARI
MAJULI
ASSAM
PIN 785106
7:BIPUL BORPHUKAN
BLOCK ELEMENTARY EDUCATION OFFICER (BEEO)
KAMALABARI
MAJULI
ASSAM
PIN 785106
8:NIRADA DOLEY MILI
W/O LATE PRABHAT MILI
R/O KAMALABARI
P.O. AND PS. MAJULI
ASSAM
PIN 785106
Advocate for : MR B BURAGOHAIN
Advocate for : MS. M B BARUAH (r-8) appearing for DR. BIJOYA CHOUDHURY
AND 7 ORS

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 27.01.2023

Heard Mr.J.P. Kachari, the learned counsel appearing on behalf of the applicant. Ms. M.B. Baruah, the learned Legal Aid Counsel appears on behalf of respondent No. 8, Mr. B. Kaushik, the counsel appears on behalf of the 2, 3, 7 and 9.

The instant contempt application has been filed alleging violation of the order dated 19/12/2019 passed by this Court in W.P.(C) No. 9393/2019. The order dated 19/12/2019 enclosed as Annexure-1 to the contempt application would show that there was a direction that till the returnable date which was fixed on 14/2/2020 no

family pension in respect to the services rendered by the deceased Prabhat Ali shall be released either to the petitioner or the respondent No. 10 without the leave of the Court. It further appears that on 14/2/2020 the matter was directed to be listed on 16/03/2020 and the interim order passed on 19/12/2019 was directed to continue till the next date. The expression used in the said order dated 14/2/2020 is "interim order passed earlier shall continue till then". Thereafter the record shows that the interim order was not extended although the matter was listed before this Court on 28/5/2020, 18/6/2020, 19/11/2020, 14/12/2020 and 20/01/2021. However, on 9/2/2021 there was an order to the effect that the interim order passed earlier shall continue till the next date of listing. It further appears that thereafter the said interim order has not been extended.

A perusal of the entire order sheet of W.P.(C) No. 9393/2019 would show that for the period from 16/3/2020 till 9/2/2021 there was no interim order and during this period on 6/11/2020, the Director of Pension has issued the order by which entitling the respondent No. 8 herein to get the pension. Taking into account the said order dated 6/11/2020 was issued by the Director of Pension at the time when there was no interim order, there cannot be any willful or deliberate violation to the orders dated 19/12/2019 or 14/12/2020. Accordingly this Court is of the opinion that the instant contempt petition is misconceived and accordingly the contempt proceedings stands dropped.

It is also relevant to take note of that vide an order dated 27/01/2023 passed in W.P.(C) No. 9393/2019, this Court had held that the respondent No. 8 herein would be entitled to the family pension in terms with the Assam Services(Pension) Rules 1969 . This is another reason for which the instant contempt proceedings stands dropped.

JUDGE

Comparing Assistant