

GAHC010184942023



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

Case No. : WP(C)/4869/2023

EBARAN NESSA
W/O- LT. ABDUL BARIK PARAMANIK, VILL- NAYER ALGA PT. III.,P.O.
NAYER ALGA, P.S. BILASIPARA, DISTRICT- DHUBRI, ASSAM, PIN- 783348

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GHY-6

2:THE SECRETARY TO THE GOVT. OF ASSAM
EDUCATION DEPARTMENT
DISPUR
GHY-6

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

4:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
P.O. P.S. AND DIST. DHUBRI
PIN- 783301

5:THE DIRECTOR OF PENSION
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY-6

6:THE ACCOUNTANT GENERAL OF ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29

7:THE TREASURY OFFICER
BILASIPARA TREASURY OFFICE
BILASIPARA
DIST.- DHUBRI
ASSAM

8:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
ASSAM
PIN- 783301

9:THE BLOCK ELEMENTARY EDUCATION OFFICER
BILASIPARA
DIST. DHUBRI
ASSAM
PIN- 783348

10:ROKIYA KHATUN
D/O- LT. AYNAL HOQUE
R/O- VILL- DIPURKUTI
P.O. BILASIPARA
P.S. BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 78334

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29.11.2023

Heard Mr. M.U. Mondal, learned counsel for the petitioner. Also heard Ms.

J. Das, learned Standing Counsel, Accountant General (A&E), Mr. B. Talukdar, learned counsel for the Department of School Education and Mr. M. Khan, learned counsel for the respondent no.10. None appears for the Director of Pension.

The petitioner and the private respondent no.10 are the first wife and the second wife respectively of one late Abdul Barik Paramanik, who was employed as a Head Teacher of *2414 No. Bhati Nayeralga Lower Primary (L.P.) School* in the Bilasipara Education Block of District-Dhubri. The petitioner's husband died on 14.02.2023 while in service. On an application submitted by the petitioner, the pension was released to the petitioner. However, subsequently, the respondent no.10, who claims to be the second wife of the late Abdul Barik Paramanik, filed an objection before the competent authority and thereafter, the pension of the petitioner has been stopped by the authority concerned. Being aggrieved, the present writ petitioner is before this Court.

The petitioner submits that in view of the Hon'ble Full Bench's judgment of this Court passed in W.A. No.160/2018 (*Mustt Junufa Bibi vs. Mustt Padma Begum @ Padma Bibi & 4 Ors.*) on 22.12.2022, the respondent no. 10 has not right to claim for pension.

Per contra, Mr. M. Khan, learned counsel for the respondent no.10 submits

that penultimate paragraph of the Full Bench Judgment passed in W.A. No.160/2018 on 22.12.2022 provides that the second wife may be given an opportunity to redress her grievances before the competent authority and thereupon, may bifurcate or segregate the pension. It is under such circumstances, the pension of the petitioner has been stopped as the matter is under process.

Considering the issues having been settled by the Full Bench in its judgment and order dated 22.12.2022 passed in W.A. No.160/2018 (*Mustt Junufa Bibi vs. Mustt Padma Begum @ Padma Bibi & 4 Ors.*), this Court does not consider it necessary to retain the matter due to lack of instructions coming from the respondent Department. A copy of the representation dated 11.08.2023 addressed to the Director of Pension has been enclosed to the writ petition as Annexure-4. It is submitted that this representation has not been redressed by the Department.

In that view of the matter, the writ petition stands disposed of by directing the respondent authorities, more particularly, the Director of Pension i.e. the respondent no.5 to dispose of the representation filed by the petitioner after hearing the petitioner in this regard. It is further directed that while disposing of the representation, the Director of Pension will take into

consideration the judgment and order dated 22.12.2022 passed in W.A. No.160/2018 (*Mustt Junufa Bibi vs. Mustt Padma Begum @ Padma Bibi & 4 Ors.*). The claims of the parties may be addressed in terms of the provisions of Rule 143 of the Pension Rules, 1969. Thereafter, the Director of Pension will pass necessary speaking order within a period of 30 (thirty) days from the date of receipt of a certified copy of this order.

Writ petition accordingly stands disposed of in terms of the above.

JUDGE

Comparing Assistant