

GAHC010190312021



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

Case No. : WP(C)/6805/2021

SRI HAREN CHANDRA DAS
S/O LATE DHARANI DHAR DAS
VILLAGE BHATHIPARA, PO CHAYGAON, PS CHAYGAON, DIST KAMRUP
(R) ASSAM 781124

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, HOME
DEPARTMENT, DISPUR GUWAHATI 781006

2:THE DIRECTOR GENERAL OF CIVIL DEFENCE AND COMMANDANT
GENERAL OF HOME GUARDS

ASSAM
BELTOLA
GUWAHATI 781028

3:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
MAIDAMGAON
GUWAHATI 29
ASSAM

4:THE COMMANDANT

ASRF (ASSAM SPECIAL RESERVE FORCE) BN 01
BARJHAR
NALBARI

5:THE TREASURY OFFICER

AMINGAON
KAMRUP(R) ASSAM
78112

Advocate for the Petitioner : MR. A DEKA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 28-04-2023

Heard Mr. A. Deka, learned counsel for the writ petitioner. Also heard Mr. D. Chakraborty, learned stranding counsel for the office of Account General, Assam appearing for the respondent No. 3 and Mr. C.S. Hazarika, learned Govt. Advocate, Assam appearing for the respondent Nos. 1, 2 and 4. Mr. A. Chaliha, learned standing counsel, Finance has appeared on behalf of respondent No. 5.

The writ petitioner herein had retired from service as a Havildar in the ASRF Bn.-I, Barjhar (Barama), Nalbari w.e.f. 31-08-2019. After his retirement the pension of the petitioner was apparently fixed at a lower scale, i.e. by ignoring the benefit of revised pay scale. Not only that, a sum of Rs. 133,337/- had also been deducted from his DCRG on the ground of excess drawl. Aggrieved thereby, the petitioner had approached this Court by filing the instant writ petition *inter-alia* contending that there was no excess drawl on his part. On the contrary, he has been denied the correct amount of pension payable on the basis of the applicable pay scale.

Mr. B. Chakraborty, learned CGC appearing for the respondent No. 3 has produced written instruction dated 22-11-2022, according to which, there was a mistake committed in finalizing the pension of the petitioner at a lower scale although the petitioner was entitled to pension at a higher scale. Mr. Chakraborty further submits that the mistake was committed due to incorrect information furnished by the respondent Nos. 1, 3 and 4. The learned CGC has further clarified that the recovery made from the petitioner was also not correct as there was no excess drawl on his part. Submitting that the error will be rectified as soon as the papers are sent by the administrative department, Mr. Chakraborty has assured this Court that the grievance of the petitioner will be redressed without any further delay.

Mr. C.S. Hazarika, learned counsel for the respondent Nos. 1, 3 and 4 also submits that it is a case of unintentional error on the part of the departmental authorities and therefore, immediate steps will be initiated for rectification of the error.

Responding to the query made by this Court as to who should be held responsible for the injuries suffered by the petitioner for the mistake committed at the departmental level, Mr. Hazarika submits that since the error was unintentional, this Court may show leniency in the matter for the present.

Mr. Chaliha, learned counsel for the respondent No. 5 has assured this Court that necessary support in this regard will be extended by the State Finance Department.

Mr. Chakraborty, learned CGC assured this Court that within 02 weeks from the date of receipt of the papers from the respondent Nos. 1, 2 and 4, necessary steps for

redressal of the grievance of the petitioner will be taken.

In view of the above, this writ petition stands disposed by directing the respondents to do the needful for proper fixation of the pension of the petitioner within the time schedule as noted above.

It is made clear that, if for any reason, the defect is not rectified within the above time frame, it will be open for the petitioner to approach this Court once again seeking redressal of his grievance including making a prayer for payment of compensation for the wrong doing, if any, on the part of the respondents.

The respondents shall also take necessary steps for refund of the amount deducted from the DCRG of the petitioner along with the simple interest @6% per annum w.e.f the date of deduction till the refund is made.

With the above observation, this writ petition stands closed.

JUDGE

GS

Comparing Assistant