

GAHC010192802022



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

Case No. : WP(C)/6327/2022

MOFIQUDDIN AHMED HAZARIKA
S/O. LT. SUNTI ALI HAZARIKA, R/O. JENGONI KATIA, P.O. AND P.S.
SIBASAGAR, DIST. SIBASAGAR, ASSAM, PIN-785640.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPTT., DISPUR, GUWAHATI-781006.

2:THE PRINCIPAL ACCOUNTANT GENERAL (A AND G)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI-781037.

4:THE DIRECTOR OF PENSION
ASSAM HOUSEFED COMPLEX
BELTOLA
GUWAHATI-781006.

5:THE DIVISIONAL FOREST OFFICER
SICIAL FORESTRY DIVISION
DIBRUGARH
ASSAM, PIN-786001

Advocate for the Petitioner : MR. S S S RAHMAN
Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

03-10-2023

Heard Mr. S.S.S. Rahman, learned counsel for the petitioner. Also heard Mr. D. Gogoi, learned standing counsel Forest Department, for respondent Nos. 1, 3 and 5; Mr. B. Chakraborty, learned standing counsel, Accountant General, for respondent No. 2 and Mr. D. Bora, learned Government Advocate for respondent No. 4.

The petitioner while serving as Forest Ranger-1, retired on 30-11-2018. Thereafter, the petitioner submitted his pension papers declaring the name of his two wives. The respondent No. 2/Accountant General, through the Senior Accounts Officer, raised an objection with regard to the second marriage of the petitioner by projecting that the second marriage of the petitioner was in violation of Rule 26(1) of the Assam Civil Service (Conduct) Rules, 1965, by letter dated 28-10-2019. The said letter dated 28-10-2019 was addressed to the Joint Secretary to the Government of Assam, Environment and Forest Department. As the petitioner was not paid his pension, gratuity, arrear TA bills and revised Pay Scale arrear, the petitioner approached this Court by filing WP(C) No. 348/2021, the said writ petition was disposed of by order dated 15-09-2021. The relevant portion reads as under :

“Therefore, at this stage, the Court is not inclined to make any observation as to the right of the two wives of the petitioner to get family pension, which is a question which would arise after the death of the petitioner and the surviving wife of the petitioner would be at liberty to raise the question, if any, that may arise at that stage.

For the time being, till the petitioner is alive, the respondent no.2 is directed to proceed with the finalization of the pension of the petitioner and it would be open to the respondent no.2 to make a remark as to which wife of the petitioner would be entitled to family pension, if at all such a note is necessary. It is made clear that any such remark by the respondent no.2 on the question of entitlement of pension would be open to be agitated by the wives of the petitioner in accordance with law. Accordingly, the respondent no.2 may not wait for any further communication from the Forest Department and the said authority would process the

pension papers of the petitioner in light of the observations made above within a period of 6 (six) weeks from today. Similarly, the Forest Department is also directed to process and pay retirement benefits like gratuity, arrear T.A. Bills and revised pay-scale arrear within a period of 6 (six) weeks from today."

The learned counsel for the petitioner submits that consequent to the order dated 15-09-2021, passed in WP(C) No. 348/2021, the petitioner has been paid his pension, gratuity, arrear TA bills and revised Pay Scale arrear. However, by way of the present writ petition, the petitioner is claiming for interest under the provision of Rule 197-A of the Assam Services (Pension) Rules, 1969 (hereinafter referred to as 'Rules of 1969'). As per Rule 197-A (2) every case of delayed payment of pension and gratuity shall be considered by the Secretary of Department in respect of his employees and employees of its attached and sub-ordinate offices and where the Secretary of the Department is satisfied that the delay in payment of pension and gratuity was caused on account of administrative lapses the Secretary of the Department shall sanction payment of interest with the concurrence of Pension and Public Grievances Department at such rate as prescribed under Sub-Rule (6).

Accordingly, this writ petition is disposed of directing the Secretary to the Government of Assam, Environment and Forest Department to consider the case of the petitioner in terms of Rule 197-A (2) of the Rules of 1969 and, thereafter, come to a decision as to whether the petitioner is entitled to interest for delayed payment of pension and gratuity.

Let such exercise be conducted and concluded within a period of two months from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant