

GAHC010193482020



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

Case No. : WP(C)/6/2021

MUSSTT. FULERUN NESSA BARLASKAR
W/O- LT. MOIN UDDIN BARLASKAR, R/O- RONGPUR PT (IV), P.O.
RONGPURPUR-9, P.S. SILCHAR, DIST.- CACHAR, (ASSAM)

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
PENSION AND PUBLIC GRIEVANCES DEPTT., DISPUR, GHY-06

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

3:THE CHIEF ENGINEER
IRRIGATION DEPTT.
ASSAM
CHANDMARI
GHY-03

4:THE DIRECTOR OF PENSION
HOUSE-FED COMPLEX
DISPUR
GHY-06

5:THE EXECUTIVE ENGINEER
HAILAKANDI DIVISION (IRRIGATION)
HAILAKANDI
P.O. AND DIST.- HAILAKANDI
ASSAM
PIN- 788155

6:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GHY-2

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

25-01-2023

Heard Mr. F.A. Laskar, learned counsel appearing on behalf of the petitioner. Also heard Mr. D. Bora, learned Government Advocate for respondent Nos. 1 and 4, Mr. B. Gogoi, learned Standing Counsel, Finance Department, for respondent No. 2, Mr. N. Upadhyay, learned Standing Counsel, Irrigation Department, for respondent Nos. 3 and 5 and Mr. S.K. Medhi, learned Standing Counsel, Accountant General (A&E), for respondent No. 6.

The issue involved in the instant writ petition is a challenge to the inaction of the respondent authorities to grant the family pension to the petitioner with effect from the date of death of the husband of the petitioner, i.e., 04-06-2010 as well as for making correction in the service records of the husband of the petitioner and include the petitioner as nominee in place of the name of the first wife and further for direction upon the respondent authorities to release the arrear pension to the petitioner with effect from 04-06-2010, the date of death of her husband.

The case of the petitioner, in brief, is that the husband of the petitioner, Moin Uddin Barlaskar (since deceased) was a Government servant in the office of the Executive Engineer, Hailakandi Division (Irrigation), Hailakandi. He retired from service, on attaining the age of superannuation, on 28-02-1997 as Operator-cum-Mechanic of the said Division. Accordingly, the final pension was granted to the husband of the petitioner vide P.P. No. Sil/71596. It has further been mentioned in the petition that during the tenure of the service of her husband, he had nominated his earlier wife, namely, Nur Begum (since deceased) for family pension and for other service benefits, but unfortunately, Nur Begum expired on 08-11-2001 leaving behind her husband, two sons and one daughter. Subsequent thereto, the petitioner married Late Moin Uddin Barlaskar on 10-12-2001 socially with the consent of the guardians of both the parties by virtue of the marriage agreement dated 17-01-2005, sworn before the Additional District Magistrate, Cachar, Silchar, and lived together as husband and wife till the death of her husband, on 04-06-2010. Upon the death of the husband of the petitioner, on 27-09-2010, the petitioner had submitted a representation to the Executive Engineer, Department of Irrigation, Hailakandi Division, informing about the death of her husband and requesting that the family pension be granted in her favour. On receiving the said representation dated 27-09-2010, the Executive Engineer, Hailakandi Division, Irrigation Department, vide office order dated 03-06-2011 submitted all document to the Accountant General (A&E) for granting family pension in favour of the petitioner, but no action was taken by the respondent No. 6. The petitioner, thereupon, submitted a representation on 15-07-2015 before the Accountant General (A&E), Assam, along with a copy of the representation sent to the Director of Pension, Assam, stating to the effect of granting family pension and insertion of her name in the

service record of her husband as nominee. The said representation having not been considered by the respondent authorities, the petitioner has approached this Court under Article 226 of the Constitution of India.

It appears from record that this Court, vide the order dated 04-01-2023 directed the learned counsel for the Irrigation Department as well as the Accountant General (A&E) to obtain necessary instructions so that the Court can dispose of the matter on the next date taking into account the fact that 13 years have already passed by but the respondent authorities have not paid the family pension to the petitioner. This Court accordingly fixed the matter on 09-01-2023.

On 09-01-2023, Mr. S.K. Medhi, learned counsel appearing on behalf of Accountant General (A&E) had placed before the Court a document by which the Senior Account Officer had communicated the Treasury Officer, Silchar, requesting the latter to incorporate the name of the petitioner, the second wife of Late Moin Uddin Barlaskar, taking into account the first wife of Late Moin Uddin Barlaskar had expired on 08-11-2001. The said communication was issued on 05-10-2021. Under such circumstances, the learned standing counsel who was appearing for the Finance Department was directed to obtain necessary instructions as to why the petitioner had not been paid the pension by the Treasury Officer, Silchar and to obtain the status of the pension to be paid to the petitioner.

Today, Mr. B. Gogoi, learned Standing Counsel, Finance Department, has placed on record a document whereby the Treasury Officer, Silchar, had on the basis of the communication dated 05-10-2021 included the name of the petitioner as the family pensioner being the second wife of Late Moin Uddin Barlaskar. It was further mentioned that the petitioner would be entitled to the monthly family

pension at the rates mentioned therein. It further appears that the said communication was forwarded to the Manager, SBI, Silchar along with the P.P. No. Sil/71596, for doing the needful. The said documents, which have been placed by Mr. Gogoi, is kept on record and marked with the letter 'Y'.

The learned counsel for the Finance Department, therefore, submits that it is now the Manager, SBI, who has to make necessary payment to the bank account of the petitioner as all the respondent authorities have done the needful so that the petitioner receives the family pension along with arrear.

Taking into account the said submission made, this Court, therefore, disposes of the instant writ petition with the observation and declaration that the petitioner being the second wife of Late Moin Uddin Barlaskar, is entitled to the family pension in terms of P.P. No. Sil/71596 and accordingly entitled to the release all the arrear pension with effect from the date of death of the petitioner, i.e., 04-06-2010 along with the present family pension as has been fixed by the Director of Pension, the Accountant General (A&E), which has been forwarded by the Treasure Officer, Silchar to the Manager, SBI, Silchar vide memo No. 5/SA, dated 06-08-2022. The petitioner is given the liberty to produce a certified copy of the order before the Manager, SBI, Silchar, 'so that the said authority can do the needful in terms of the observations made hereinabove.

With the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant