

GAHC010239002023



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

Case No. : WP(C)/6409/2023

MOHAMMAD ALI
S/O LATE SIRAJ ALI, R/O VILL-DUAMARI, P.O.-DEWAGURI, DIST-
MORIGAON, ASSAM, PIN-782127

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF SCHOOL (ELEMENTARY) EDUCATION, JANATA
BHAWAN, (ASSAM SECRETARIAT COMPLEX), DISPUR, GUWAHATI-781006

2:PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE
JANATA BHAWAN
(ASSAM SECRETARIAT COMPLEX)
DISPUR
GUWAHATI-781006

3:COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
JANATA BHAWAN
(ASSAM SECRETARIAT COMPLEX)
DISPUR
GUWAHATI-781006

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
ASSAM

6:THE DIRECTOR OF PENSION
BANPHOOL NAGAR
DISPUR
BASISTHAPUR
GUWAHATI-781006

7:LIASMA SULTANA
W/O LATE ASHAD ALI
R/O VILL-DUAMARI
P.O.-DEWAGURI
DIST-MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

06.11.2023

O R D E R

Heard Mr. A. R. Bhuyan, learned counsel for the petitioner. Also heard Mr. G. Pegu, learned Standing Counsel, Elementary Education Department, Government of Assam, for respondent Nos.1, 4 and 5; Mr. A. Chaliha, learned Standing Counsel, Finance Department, Government of Assam for respondent No.2 and Mr. B. Deuri, learned Government Advocate, Assam for respondent Nos.3 and 6.

The petitioner is the dependent father of late Ashad Ali, who died in harness on 21.05.2023 while serving as a regular Arabic Teacher in Kathulipara ME Madrassa, Dhubri.

It is the case of the petitioner that while his son, namely, late Ashad Ali, was serving as an Arabic Teacher in the said Kathulipara ME Madrassa, Dhubri, he was detected with cancer and, accordingly, the petitioner's son succumbed to the said disease. During the course of his treatment, wife of the petitioner's son, namely,

Liasma Sultana (respondent No.7) deserted her husband and started to reside in her parental home. In terms of the Notification dated 14.09.2017, which provides for compassionate family pension scheme, respondent No.7 received some of the pensionary benefits. However, it is the case of the petitioner that he is not being looked after by the respondent No.7, who is the wife of the petitioner's late son.

Clause 5.10 of the Notification dated 14.09.2017 provides that if the parents or other eligible family members are not looked after by the compassionate family pensioner, on receipt of such complaint from them, the competent authority will issue orders apportioning the compassionate family pension appropriately among the other eligible family members.

As the petitioner is not being looked after by the respondent No.7, who is the wife of the petitioner's late son Ashad Ali, the petitioner filed a complaint before the Director of Elementary Education, Assam on 22.08.2023. It is the case of the petitioner that the said complaint dated 22.08.2023 is yet to be attended to by the Director of Elementary Education, Assam/respondent No.4.

After hearing learned counsel for the parties and on consideration of the materials available on record, this writ petition is disposed of directing the petitioner to file a fresh representation before the respondent No.4 by annexing a copy of this writ petition along with the annexures appended thereto within a period of 10 days from today. Thereafter, on receipt of the representation to be made by the petitioner, the respondent No.4 shall give a personal hearing to the petitioner as well as respondent No.7/wife of the petitioner's late son, namely, Ashad Ali and, thereafter, dispose of the representation within a period of one month in accordance with law. Till the representation filed by the petitioner is considered and disposed of, no further pensionary benefit shall be paid to any of the parties.

With the above observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant