

GAHC010239452022



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

Case No. : WP(C)/7539/2022

HIRUMAI NATH @ HIRU NATH
W/O. LT. UPEN CHANDRA NATH, VILL. BHAIRALI PATH, KALIBARI CHUK,
P.O. AND P.S. TEZPUR, DIST. SONITPUR, ASSAM, PIN-784001.

VERSUS

THE UNION OF INDIA AND 4 ORS
THROUGH THE SECRETARY, TO THE GOVT. OF INDIA, MINISTRY OF
COMMUNICATION NEW DELHI.

2:THE CHIEF POST MASTER GENERAL

ASSAM CIRCLE
GUWAHATI
MEGHDOOT BHAWAN
GUWAHATI-781001.

3:THE DIRECTOR OF POSTAL ACCOUNTS

REHABARI
GUWAHATI-781008.

4:THE CONTROLLER OF COMMUNICATION ACCOUNTS

DEPTT. OF TELECOMMUNICATION AND I.T. GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781001.

5:THE SENIOR ACCOUNTS OFFICER (PEN)
OFFICE OF THE CONTROLLER OF COMMUNICATION ACCOUNTS
DEPTT. OF TELECOMMUNICATION AND I.T.

GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781001

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : DY.S.G.I.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

25.01.2023

Heard Mr. S. C. Biswas, the learned counsel for the petitioner and Mr. S. S. Roy, the learned counsel appearing on behalf of all the respondents.

The instant writ petition has been filed challenging the action of the respondents in stopping the pension of the petitioner with effect from November, 2018 and for a direction upon the respondents for payment of the pension with effect from November, 2018 till date, with adequate interest and compensation.

The case of the petitioner in brief is that the petitioner married to one Upen Chandra Nath (since deceased) who was an employee under the Indian Postal Department. Late Upen Chandra Nath died in harness leaving behind the petitioner who was his dependant. Thereupon, the petitioner was granted family pension with effect from 01.04.1982 vide PPO No.TA/ASM/511 wherein her date of birth was entered as 10.05.1955. The further case of the petitioner is that the petitioner received the family pension regularly upto the month of November, 2018. In the meantime, the

petitioner received a communication on 04.09.2018 issued by the Senior Accounts Officer of the Office of the Controller of Communication Accounts, Department of Telecommunications wherein the petitioner was asked to clarify the allegation that she had remarried one Narayan Barman in spite of the fact that she was drawing the family pension. Vide the said communication dated 04.09.2018, it was also mentioned that there is birth certificate of one Pallabi Barman as evidence to the conjugal life of the petitioner with Narayan Barman. It was mentioned that as per the Pension Rules, family pension is not admissible from the date of remarriage. Under such circumstances, the petitioner was requested to confirm the Office about her remarriage with date immediately.

It is the case of the petitioner that the petitioner, subsequent thereto, submitted two representations to the Director of Postal Accounts as well as the Senior Accounts Officer stating inter-alia that she was not remarried to Narayan Barman as alleged. It was also mentioned that photocopy of the birth certificate of Pallabi Barman that alleged evidence of her conjugal life with Narayan Barman is a manipulated one. It was mentioned that there is no daughter of the petitioner as Pallabi Barman. However, there is one Pallabi Baruah who is the daughter of Late Ghanakanta Baruah and has been living with the petitioner as her adopted daughter. In the representations so submitted to the Senior Accounts Officer, the photocopy of the birth certificate of Pallabi Baruah was enclosed. Even after the said representation as the petitioner had not been paid her family pension, the instant writ petition was filed.

Mr. S. S. Roy, the learned counsel appearing on behalf of all the respondents submitted that the respondent authorities have not received

any communication from the petitioner. He specifically submitted that pursuant to the communication dated 04.09.2018 enclosed as Annexure-3 to the writ petition, the petitioner has not communicated back to the Senior Accounts Officer as was directed to be done vide communication dated 04.09.2018, and as such, from the month of November, 2018, the family pension of the petitioner has been withheld.

At this stage, Mr. S. C. Biswas, the learned counsel for the petitioner submitted that though the petitioner has submitted the representations as has been enclosed to the writ petition but without going into the said issue, this Court may permit the petitioner to clarify the stand of the petitioner by submitting a communication to the Senior Accounts Officer within a particular stipulated period of time and a direction may be issued to the concerned respondent authorities to make necessary verification in that regard and upon such satisfaction, the respondents be directed to pay the family pension to the petitioner along with arrear amounts.

Having heard the learned counsel for the parties and upon perusal of the materials on record, this Court is of the opinion that the interest of justice would be met if an opportunity is given to the petitioner to make her clarification in terms with the communication dated 04.09.2018.

Accordingly, this Court grants liberty to the petitioner to submit a reply to the communication dated 04.09.2018 within a period of 15 (fifteen) days from today. In the said reply, the petitioner would be at liberty to enclose such documents as deems fit by the petitioner.

It is made clear that upon the said reply if submitted by the petitioner within the period as aforementioned, the concerned respondent authorities,

more particularly, the respondent No.5 shall take a decision on the matter and thereupon if found that the petitioner is entitled to the family pension, the said respondents shall release the family pension of the petitioner as well as pay the arrear amount of the family pension to the petitioner.

The said exercise be completed within a period of 60 (sixty) days from the date of submission of the reply by the petitioner.

With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant