

GAHC010243592017



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

Case No. : WP(C)/7037/2017

ON THE DEATH OF RABIN DEKA HIS LEGAL HEIR
S/O- LATE PADMA RAM DEKA, VILL- AKASHI NAGAR, P.O-
BAMUNIMAIDAM, P.S- CHANDMARI, GUWAHATI- 781021, DIST- KAMRUP
(M), ASSAM,

1.1: SMTI MALA DEKA
W/O LATE RABIN DEKA
VILL- AKASHI NAGAR
PO BAMUNIMAIDAM
PS CHANDMARI
GUWAHATI-21
DIST.- KAMRUP(M)
ASSAM

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION and 4 ORS
REP. BY THE COMMISSIONER , GMC, PANBAZAR, GHY- 1, DIST- KAMRUP
M, ASSAM

2:THE JOINT COMMISSIONER
PERSONNEL BRANCH
GMC
PANBAZAR
GHY-1
DIST- KAMRUPM
ASSAM

3:THE MUNICIPAL SECRETARY
GMC
PANBAZAR
GHY- 1
DIST- KAMRUPM
ASSAM

4:THE CHIEF ACCOUNT AND AUDIT OFFICER

ACCOUNTS BRANCH
GMC
PANBAZAR
GHY- 1
DIST- KAMRUPM
ASSAM

5:THE ACCOUNTS OFFICER
ACCOUNTS BRANCH
GMC
PANBAZAR
GHY- 1
DIST- KAMRUPM
ASSA

Advocate for the Petitioner : MR.B BURAGOHAIN

Advocate for the Respondent : MR.S BORA

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 30.01.2023

Heard Mr. J. P. Kachari, the learned counsel appearing on behalf of the petitioner and Mr. S. Bora, the learned Standing counsel appearing on behalf of the respondent Nos. 1 to 5.

2. The case of the petitioner herein is that the petitioner joined the Guwahati Municipal Corporation as a Lower Division Assistant. Thereafter, the petitioner was promoted to the post of Cashier, Cash Branch, Guwahati Municipal Corporation as Upper Division Assistant for his services rendered. However, while the petitioner was working as an Upper Division Assistant, Cash Branch,

Guwahati Municipal Corporation, the Commissioner, Guwahati Municipal Corporation issued an order dated 11.08.2011 vide Memo No.GRP/2808/84/83/507 whereby the petitioner was placed under suspension from services on the allegation for fraudulent withdrawal of GMC fund from Guwahati Municipal Corporation Account No.10823642869.

3. It is further the case of the petitioner that the subsistence allowance of the petitioner was not released for which he had submitted a representation on 13.10.2011. The learned counsel appearing on behalf of the petitioner has submitted that to his information, till now the departmental proceedings so initiated has not yet been completed and the petitioner retired on 07.02.2013. The case of the petitioner therefore is that the petitioner was not paid his subsistence allowance during the time of his suspension and thereafter, upon his retirement, neither his pension nor pensionary benefits have been paid to the petitioner in spite of the fact that there is no finding against him in any departmental proceedings. It is the further case of the petitioner that the petitioner has approached the respondent authorities time and again and the respondent authorities have not responded for which the petitioner has approached this Court under Article 226 of the Constitution of India.

4. Mr. S. Bora, the learned Standing counsel appearing on behalf of the respondent Nos. 1 to 5 submits that he has no instruction as regards the departmental proceedings which was initiated against the petitioner. He further submits that as per his instructions, all the employees of GMC are being duly paid their pensionary benefits.

5. Taking into account that there has been no materials placed by the respondents in spite of the fact that the instant writ petition was filed in the

year 2017 and a further opportunity was given on 19.12.2022 by this Court, this Court disposes of the writ petition with a direction to the respondents herein to verify as to whether the petitioner has been paid his subsistence allowance during the period of his suspension as well as to whether the petitioner has been paid his pension as well as the pensionary benefits. Upon such verification, if it is found that the petitioner has not been paid his subsistence allowance during the period of his suspension as well as also not being released his pension and pensionary benefits which is a right of the petitioner to get, the respondent authorities are directed to pay the petitioner his subsistence allowance during the period of his suspension and also release his arrear pension as well as the pensionary benefits to which the petitioner is entitled to as per law.

6. The said exercise shall be carried out by the Commissioner, Guwahati Municipal Corporation within a period of 60 days from the date of a certified copy of the instant order is served upon the Commissioner, GMC.

7. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant