

GAHC010267502023



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

Case No. : Cont.Cas(C)/710/2023

DR. (MRS) TRIPTI DAS
W/O LATE INDRAJIT DAS, SHIBCHARAN LANE, NABAPALLY
(KARATIGRAM), RONGPUR, P.O.-SILCHAR-788009, DIST-CACHAR, ASSAM

VERSUS

BUDDHADEB CHOUDHURY AND ANR
PRESIDENT OF THE GOVERNING BODY, WOMENS COLLEGE, SILCHAR,
DIST-CACHAR, ASSAM, PIN-788001

2:SMTI DEVASREE DATTA
THE PRINCIPAL-IN-CHARGE
WOMENS COLLEGE
SILCHAR
DIST - CACHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. A DHAR

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 12.12.2023

Heard Ms. D. Ghosh, learned counsel for the petitioner and Mr. M.K.

Choudhury, learned senior counsel for the respondent contemnor Principal In-charge, Women's College, Silchar. Also heard Mr. A.R. Tahabildar, learned counsel for the respondents in the Higher Education Department.

2. This contempt petition is instituted alleging wilful and deliberate violation of the order dated 18.09.2023 in WP(C) No. 4938/2023, by which a direction was issued which is extracted as below:

“13. Further, during pendency of this writ petition, the respondent authorities in the Women's College, Silchar shall provide the provisional pension as well as provisional Death-cum-Retirement-Gratuity to the petitioner, as per her entitlement in accordance with law, if there is no other impediment in releasing the same to her.”

3. A reading of the afore-extracted order makes it discernible that there was a direction to the authorities in the Women's College, Silchar to provide the provisional pension as well as provisional death-cum-retirement-gratuity to the petitioner as per her entitlement in accordance with law.

4. When the matter was moved on 04.12.2023, we required the Principal In-charge of Women's College, Silchar to remain personally present before the Court to explain as to why the direction of this Court to pay the provisional pension to the petitioner had not been duly complied with. On 07.12.2023, Smti. Devasree Datta, the Principal In-charge of Women's College, Silchar remained personally present and intended to give an interpretation to the order of the Court that it is subject to as per entitlement of the petitioner in accordance with law. But the said submission was rejected on the premises that the provisional pension under Rule 22 of the Assam Services (Pension) Rules, 1969 is unconditional and mandatory in nature and under no circumstance provisional pension can be denied to a retired employee. In the circumstance on 07.12.2023, a statement was made before the Court by the Principal In-charge that the provisional pension would be paid immediately.

5. However, when the matter was listed on 11.12.2023, we are informed that the provisional pension had not yet been paid to the petitioner and in the circumstance, we deemed it appropriate that it was not only a violation of the order in respect of which violation the contempt petition has been instituted, but also a violation of the undertaking given to the Court on 07.12.2023. Accordingly, a non-bailable arrest warrant against the Principal In-charge of the college was issued.

6. Today when the matter is taken up on a mention being made by the learned senior counsel for the Principal In-charge, it is stated that in the meantime, the necessary papers have been forwarded by the college authorities to the Director of Higher Education, Assam for payment of the provisional pension to the petitioner.

7. Mr. A.R. Tahabildar, learned counsel for the Higher Education Department states that a proposal for the provisional pension had been received in the office of the Director in the evening of 11.12.2023 and the pension would be paid to the petitioner within 3(three) days from today.

8. Accordingly, a consequential relief is provided in this present contempt petition to the petitioner with a direction to the Director of Higher Education, Assam to complete the process and ensure that the provisional pension is paid to the petitioner within 3(three) days.

9. It is stated that the payment of death-cum-retirement-gratuity has been processed and forwarded to the Director and in this respect, we take note of the statement made by Mr. A.R. Tahablildar, learned counsel for the Higher Education Department that the Director had also received the death-cum-retirement-gratuity papers of the petitioner in the evening of 11.12.2023. Accordingly, the Director shall take immediate steps for bringing the process to

its logical end.

10. Contempt petition stands closed as indicated above.

11. In view of the closure of the contempt petition, the earlier order dated 11.12.2023 issuing non-bailable warrant against the Principal In-charge also stands closed.

JUDGE

Comparing Assistant