

GAHC010269602022



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

Case No. : WP(C)/8427/2022

TAZ UDDIN
SON OF LATE ABDUL RAHMAN CHOUDHURY,
RESIDENT OF VILLAGE- DABAKA PATHAR,
P.S.- DABAKA, P.O.- DABAKA,
DIST- NAGAON, ASSAM, PIN- 782440.
REPRESENTED BY HIS ELDER BROTHER, JALAL UDDIN, AGE ABOUT 45
YEARS,
SON OF LATE ABDUL RAHMAN CHOUDHURY,
RESIDENT OF DABAKA PATHAR,
P.S.- DABAKA, P.O.- DABAKA,
DIST- NAGAON, ASSAM,
PIN- 782440.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
PWD DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE CHIEF ENGINEER
PUBLIC WORK DEPARTMENT (ROADS)
ASSAM
CHANDMARI
GUWAHATI-3.

4:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI- 29.

5:THE EXECUTIVE ENGINEER
PWD
NAGAON RURAL ROAD DIVISION
NAGAON
DIST.- NAGAON
PIN- 782002.

6:THE TREASURY OFFICER
NAGAON TREASURY
NAGAON
DIST.- NAGAON
ASSAM.
PIN- 782001

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent : SC, PWD

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
ORDER

02.01.2023

Heard Mr. KR Patgiri, learned counsel for the petitioner. Also heard Mr. R Dhar, learned counsel for the respondents No.1, 3 and 5 respectively being authorities under the PWRD and Mr. SS Roy, learned counsel for the respondent No.2 being the authorities under the Pension & Public Grievance Department, Mr. A Hasan, learned counsel for the respondent No.4 being the Accountant General (A & E), Assam and Mr. R Barpujari, learned counsel for the respondent

No.6 being the Treasury Officer, Nagaon.

2. The petitioner claims to be the minor son of Abdul Rahman Choudhury who was working as a muster roll worker in the office of the Executive Engineer PWRD Nagaon and whose services were regularised as a Grade IV employee as per the order dated 06.10.2005.

3. The father of the petitioner retired from service on 31.12.2015 and on his death, there is a proposal for pension dated 20.04.2016 of the Executive Engineer PWRD Nagaon Division. It is stated that before the pension of the petitioner could be finalized, he died on 17.05.2016. The petitioner who is a minor has instituted this writ petition by claiming that another son of the deceased employee namely Jalal Uddin who is about 45 years is his guardian. It is stated that the wife of the deceased employee Abdul Rahman Choudhury pre-deceased him on 19.08.2008. No material is produced before the Court as to whether the petitioner being the 9 year old who claims to be the son of Abdul Rahman Choudhury is actually his son, nor the name of his mother is made available on record and neither any material is brought on record that the lady who claims to be the mother of the petitioner was the wife of the deceased employee Abdul Rahman Choudhury.

4. In the circumstance, this writ petition is instituted seeking a direction to the respondent authorities that the petitioner be paid the family pension in respect of the deceased employee Abdul Rahman Choudhury being his minor son.

5. Considering the inadequacy of materials on record, we are unable to issue a direction in the nature of mandamus for payment of family pension to the petitioner. The petitioner may submit an application before the Chief Engineer, PWD making a claim that he is the minor son of the deceased Abdul Rahman Choudhury with sufficient materials to establish that he is the minor son of the deceased employee. Upon such application being submitted, the Chief Engineer, PWD shall make a thorough enquiry as to under what circumstances, the petitioner claims to be the minor son of the deceased Abdul Rahman Choudhury, where the earlier son of the petitioner is already aged about 45 years and the daughter is about 56 years and the wife of the deceased employee predeceased him in the year 2008 and the deceased employee died in the year 2016. Upon such enquiry being made, a reasoned order be passed by the Chief Engineer as may be permissible under the law.

6. By requiring the Chief Engineer to make an enquiry, we clarify that the Court has not provided in any manner regarding the entitlement of family pension to the petitioner and whatever order is to be passed by the Chief Engineer shall be strictly as per the outcome of the enquiry.

7. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant