

GAHC010273042023



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

Case No. : WP(C)/7095/2023

RAJENDRA NATH SARMA
S/O- LATE RAJAT CHANDRA SARMA, R/O- HOUSE NO. 9 A, R.K. MISSION
ROAD, BIRUBARI, ULUBARI, GUWAHATI, KAMRUP (M), ASSAM- 781016

VERSUS

ASSAM ELECTRICITY GRID CORPORATION LIMITED AND 4 ORS
REPRESENTED BY ITS CHAIRMAN, HAVING ITS REGISTERED OFFICE AT
BIJULEE BHAWAN, GUWAHATI- 781001

2:THE MANAGING DIRECTOR
ASSAM ELECTRICITY GRID CORPORATION LIMITED
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI- 781001

3:THE CHIEF GENERAL MANAGER (F AND A)
ASSAM ELECTRICITY GRID CORPORATION LIMITED
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI- 781001

4:THE GENERAL MANAGER (HR)
ASSAM ELECTRICITY GRID CORPORATION LIMITED
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI- 781001

5:THE ASSISTING GENERAL MANAGER (CIVIL)
(GUWAHATI WORKS DIVISION) ASSAM ELECTRICITY GRID
CORPORATION LIMITED
KAHILIPARA

GUWAHATI- 78101

Advocate for the Petitioner : MR H K SARMA

Advocate for the Respondent : SC, AEGCL

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

11.12.2023

Heard Mr. B. D. Das, learned senior counsel assisted by Mr. S. Bora, the learned counsel for the petitioner and Mr. S. Katakya, learned Standing Counsel, AEGCL.

2. The case of the petitioner is brief is that the petitioner was working as Engineering Subordinate Grade-I (Civil) in the Office of the Assistant General Manager, Guwahati Works Division, Assam Electricity Grid Corporation Limited (AEGCL), Kahilipara, Guwahati. The petitioner retired from service on 31.03.2016. Thereafter, the respondent authorities have paid the retirement benefits along with pension to the petitioner with effect from 01.04.2016. It the case of the petitioner that his pension has been revised in terms of ASEB Revised Pay Rules, 2017 which has been given retrospective effect from 01.04.2016 and as such, as per Rule 4 (a) of the ASEB Revised Pay Rule, 2017, the petitioner is entitled to revision of his last pay drawn on 31.03.2016 and on the basis of said Revision of Pay, the petitioner's retiral benefits along with pension should have been fixed but, the respondent authorities have given the pension to the petitioner without revising the pay as per Rule 4 (a) of the ASEB Revision of Pay

Rules, 2017 and erroneously revised his pension by applying Rule 32 of ASEB Revision of Pay Rules, 2017. It is the further case of the petitioner that one similarly situated employee approached before this Court by filing W.P. (C) No. 1607/2020 praying for giving the benefit of ASEB Revision of Pay Rules, 2017 and that this Court vide the Judgment and Order dated 03.11.2022 allowed the said writ petition as prayed for. Thereafter, a series of writ petitions were filed by different aggrieved employees like the petitioner and this Court vide order dated 19.05.2023 in W.P. (C) No. 2464/2023 and order dated 29.09.2023 in W.P. (C) No. 4384/2023 allowed the said writ petitions by giving the same benefit. As such the petitioner has filed this writ petition praying for the same benefit as mentioned herein above. It is submitted that the matter is covered in terms of the judgment and order dated 03.11.2022 passed in WP(C) No.1607/2020.

3. The learned counsel appearing on behalf of the respondents Nos.1 to 5 submits that although the issue is covered by the judgment and order dated 03.11.2022 in WP(C) No.1607/2020 but against the said judgment and order an appeal has been preferred before the Division Bench in WA No.107/2023 wherein the issue is subjudice. The learned counsel appearing on behalf of the respondent Nos.1 to 5 further submits that in the said appeal, although the judgment and order dated 03.11.2022 passed in WP(C) No.1607/2020 has not been stayed, however, it was observed that the respondent in the writ appeal/petitioner in WP(C) No.1607/2020 shall give an undertaking to the effect that in case the appeal is allowed, the respondent therein shall reimburse the excess amount, if any, paid to him on account of the judgment and order dated

03.11.2022.

4. The learned counsel for the petitioner at this stage submits that the petitioner herein is also willing to give a similar undertaking to that effect.

5. Having heard the learned counsel for the parties and upon perusal of the judgment and order dated 03.11.2022 passed in WP(C) No.1607/2020, it is seen that vide the said judgment and order, the Coordinate Bench of this Court has held that in such view of the matter, the benefits under the Revised Pay Rules, 2017 cannot be worked out by resorting to Rule 32 (1) (a) and (b) of the Revised Pay Rules, 2017, but the entitlements of an employee are to be worked out in terms of the provision laid down in Rule 4 (a) of the revised Pay Rules, 2017. This Rule 4 (a) of the Revised Pay Rules, 2017 has made the Revised Pay Structure applicable to an employee who was in service on 31.03.2016.

6. Upon careful perusal of the judgment and order dated 03.11.2022 passed by the Coordinate Bench in WP(C) No.1607/2020, this Court is of the considered view that the present petitioner having superannuated on 31.03.2016 also falls in the category of the Revised Pay Structure. Therefore, the respondent authorities will have to work out the entitlements of the petitioner as pensioner under different Heads of Pension, Commutate Value of Pension, Death-cum-Retirement Benefit, Leave Encashment benefits etc. and if after such exercise, the petitioner is found to be entitled for an enhanced amount in terms of the Office Order No.ASEB/PLT/438/1979/268 dated 31.03.2016 and/or by application of Rule 32 (1) (a) and (b) of the Revised Pay Rules, 2017, the same should be disbursed to the petitioner in an expeditious manner.

7. It is further directed that the said exercise be undertaken and completed within a period of 2 (two) months from the date of submission of a certified copy of this order by the petitioner at the Office of the respondent No.2.

8. Before parting with the record, this Court further deems it proper to observe and direct that the petitioner shall submit, along with the certified copy of the instant order, an undertaking to the effect that in case the Writ Appeal No.107/2023 is decided in favour of the appellants therein, he shall reimburse the excess amount paid to him on account of the order passed herein.

9. In view of the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant