

GAHC010281172018



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

Case No. : WP(C)/25/2019

TARABANU BEGUM

W/O- LATE SAYED ALI, R/O- VILL- BHATIPARA, NATUN BASTI, WARD NO.
11, P.O. AND P.S. GOALPARA, DIST.- GOALPARA, ASSAM, PIN- 783101.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
THROUGH THE SECRETARY TO THE GOVT.OF ASSAM, TRANSPORT
DEPTT., DISPUR, GUWAHATI-06.

2:THE ASSAM STATE TRANSPORT CORPORATION
REP. BY ITS MANAGING DIRECTOR
RUPNAGAR ROAD
SRIMANTAPUR CHILARAI NAGAR
ULUBARI
GUWAHATI- 781007.

3:THE CHIEF PERSONAL OFFICER

ASSAM STATE TRANSPORT CORPORATION
RUPNAGAR ROAD
SRIMANTAPUR CHILARAI NAGAR
ULUBARI
GUWAHATI- 781007.

4:THE DIVISIONAL SUPERINTENDENT

ASSAM STATE TRANSPORT CORPORATION
LOWER ASSAM DIVISION-I
RUPNAGAR ROAD
SRIMANTAPUR CHILARAI NAGAR
ULUBARI

GUWAHATI- 781007.

5:THE STATION SUPERINTENDENT
ASSAM STATE TRANSPORT CORPORATION
GOALPARA
P.O. 7 P.S.- GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783101.

6:THE ACCOUNTANT GENERAL
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI
ASSAM
PIN- 781029.

7:THE DIRECTOR OF PENSION
ASSAM
DISPUR
GUWAHATI-06.

8:RUSTAM ALI
S/O- LATE SAYED ALI
R/O- VILL- HURKAKUCHI
P.O. AND P.S. GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783101

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 19/07/2023

Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Mr. J. Roy,
learned senior counsel assisted by Mr. A. Goswami, learned counsel for

respondent Nos. 2, 3 4 and 5, Mr. A. Hassan, learned standing counsel Accountant General representing respondent No.6 and Ms. M. D. Borah, learned standing counsel Transport Department representing respondent No.1.

2. The petitioner before this Court is the widow of late Sayed Ali, who was working as a Porter (Grade-IV) under Assam State Transport Corporation against a substantive post since 01.03.1955. He died in harness as far back as 01.01.1978. It is submitted by the learned counsel for the petitioner that the petitioner is the second wife of the deceased employee. The deceased employee married the present petitioner after expiry of his first wife. The name of the petitioner is shown in all service records as the wife and the nominee of the deceased employee namely, late Sayed Ali. Learned counsel for the petitioner refers to the Death Certificate and the Legal- Heir Certificate enclosed to the petition in support of his contentions.

3. It is submitted that the son of the deceased employee and the first wife, namely one Rustom Ali at the relevant point in time raised an objection before the Transport Corporation regarding release of family pension in favour of the petitioner and thereby the process for grant of family pension in respect of the present petitioner was suspended and no further steps in that regard was taken by the concerned authorities. Subsequently, under proper legal advice,

the petitioner has approached this Court and has filed the present writ petition seeking a direction from this Court to the respondents for grant of family pension as admissible under the Pension Rules.

4. Learned counsel for the petitioner has referred to an affidavit filed by the respondent No.8, Rustom Ali, wherein it is averred that although at the relevant point in time he had raised objections in respect of the release of pensionary benefits to the petitioner, however as on date he has no objection if the pension is released in favour of the present petitioner. Learned counsel for the petitioner submits that in view of the said affidavit there is no reason as to why the pensionary benefits, payable to the petitioner, ought not to be processed and released as per the provisions of law.

5. Mr. J. Roy, learned senior counsel appearing for the respondent Nos. 2, 3, 4 and 5 submits that in view of the affidavit filed by the respondent No.8 there will be no bar for restraining the corporation from processing the relevant papers relating to grant of family pension to the petitioner and to forward the same to the pension department.

6. Mr. A. Hassan, learned counsel for the respondent No.6 submits that once the papers are received from the parent department then the steps for release of pension will be processed immediately. It is further submitted that in

the year 2019-2020 the office of the Assam Transport and Tourism Department had issued a communication dated 01st February, 1980 requesting the ASTC to forward the pension papers of the petitioner. However, no response was received from the ASTC in this regard.

7. Learned counsel for the State Transport Department submits that he has no objections to the prayers made by the petitioner subject to the same being permissible under the provisions of law as it is the State Transport Corporation who was the Principle Employer of the deceased husband of the present petitioner and the relevant papers relating to his service records are available in the Corporation.

8. Having heard the learned counsels for the parties, this Court is of the view that it is not disputed at the bar that the provisions of Assam Pension Rules, 1969 are applicable in respect of the grant of pensionary benefits to the employees under the Assam State Transport Corporation as well as the grant of family pension to the legal heirs of deceased employees of the ASTC. Under Rule 143 of the Assam Pension Rules, 1969 family pension is to be granted to the wife of a male officer upon the death of the officer concerned. In the event of two or more surviving widows, pension is required to be pay to the eldest surviving widow. In the facts of the present case, there is no dispute that the

first wife of the deceased had expired in the meantime and the petitioner is the only surviving widow of late Sayed Ali, who was working as a Porter (Grade-IV) under Assam State Transport Corporation.

9. In view of the submissions made by the learned counsels appearing before the Court and also taking note of the affidavit filed by the respondent No.8, although he is not represented by any counsels today, this Court is of the view that the writ petition can be closed with a direction to the ASTC to forthwith process the relevant service documents necessary for initiating the grant of family pension in favour of the present writ petitioner. The ASTC will forward the necessary documents to the office of the Accountant General within a period of 30 days from the date of receipt of the certified copy of this order. The Accountant General's Office will forthwith intimate the ASTC in case of any lacuna in the documents as may be noticed within a further period of 30 days from the date of receipt of the pension papers from the ASTC. The petitioner will forthwith respond to any request made by either the ASTC or by the Accountant General's department in furnishing any relevant documents as may be necessary in order to process the pensionary benefits as claimed by the writ petitioner. After expiry of 60 days as directed above, the competent authority will process and release the family pension payable to the petitioner within a further period of 30 days therefrom.

10. Writ petition is accordingly allowed and disposed of in terms of the above. No order as to cost.

JUDGE

Comparing Assistant