

GAHC040002072019



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

Case No. : WP(C)/211/2019

SRI DULESWAR HAZARIKA
AGE 75 YRS. S/O LT. THANURAM HAZARIKA,
R/O VILLAGE MORALGAON,
PO BORDOLONI,
PS GOGAMUKH,
DISTRICT. DHEMAJI,
ASSAM.
MOBILE NO. 9862836710

VERSUS

THE STATE OF A.P AND 4 ORS.
THROUGH THE SECRETARY, TO THE GOVT. OF AP, PWD, ITANAGAR.

2:THE CHIEF ENGINEER
Age: 0
Occupation :
PWD GOVT. OF AP ITANAGAR
PIN CODE 791110.

3:THE SUPERINTENDING ENGINEER
Age: 0
Occupation :
PWD JAYRAMPUR
CIRCLE JAYRAMPUR
DISTRICT CHANGLANG AP.
PIN CODE 792121

4:THE ACCOUNTANT GENERAL
Age: 0
Occupation :
ARUNACHAL PRADESH
JandK BUILDING

SECTOR-E NH-52-A
PAPUM PARE
ITANAGAR
PIN CODE 791111.

5:THE DIRECTOR OF AUDIT AND PENSION
Age: 0
Occupation :
GOVT. OF AP
NAHARLAGUN AP.
PIN CODE 791110

Advocate for the Petitioner : Mr. Tayum Son

Advocate for the Respondent : Mr. Subu Tapin, Sr.Adv.

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 01-08-2024

Heard Mr. T. Son, learned counsel for the petitioner and Mr. S. Tapin, learned Senior Government Advocate appearing for the respondent Nos. 1, 2, 3 and 5. None appeared for the respondent No. 4, the Accountant General.

2. This case reflects total apathy on the part of the respondents with regard to the payment of pension to their retired employee which led to sufferance for 22 years after retirement.

3. By this writ petition, the petitioner has sought for a direction to the respondent authorities to finalize and make payment of pension as the same has not been finalized till date, although, the petitioner has retired on 30.04.2002.

4. The petitioner who was initially appointed as Store Keeper on 14.09.1963 in the Office of the Additional Political Officer, Daporijo, NEFA (now Arunachal

Pradesh), under the Ministry of External Affairs, Government of India, was appointed and posted as LDC under the Director of Supply and Transport, NEFA, on 08.07.1966. He was promoted to the post of UDC in 1969 and absorbed in the same capacity on 11.08.1971. After the creation of the State of Arunachal Pradesh, the petitioner was posted as UDC in the Public Works Department, Government of Arunachal Pradesh. He was promoted to the post of Assistant on 28.06.1996 and retired from the service on 30.04.2002.

5. It is the contention of the petitioner that immediately after his retirement, he has approached the respondent authorities on various occasions for finalization of his pension by filing several representations. The petitioner had approached the respondent authorities from time to time till filing of the present writ petition. However, as on date, the pension of the petitioner has not been finalized.

6. Mr. T. Son, learned counsel for the petitioner submits that due to non-finalization and payment of the pensionary benefits to the petitioner even after 22 years, the petitioner is facing acute financial hardships and he is also suffering from mental anxiety and agony. The petitioner is about 81 years of age now and non-finalization and payment of pensionary benefits to petitioner violates the fundamental rights. He submits that pension is not a bounty and the authorities are not extending charity but it is a hard-earned money by the petitioner after long service to the department. Therefore, he submits that the respondent authorities may be directed to finalize and release the pensionary benefits to the petitioner forthwith.

7. Mr. S. Tapin, learned Senior Government Advocate while referring to the affidavit filed on behalf of the respondents, submits that the petitioner has been paid with retirement Gratuity. Petitioner could not be paid the other pensionary

benefits due to non-regularization of his absent period of 1,797 days. Subsequently, 1,806 days of his service could not be regularized due to non-response of the petitioner as he did not submit leave application to the concerned authorities during the relevant period. He submits that unless the above absent period is regularized, the pension cannot be paid. Since the petitioner was not cooperating, delay cannot be solely attributed to the respondent authorities. Mr. Tapin, learned Senior Government Advocate further submits that the pension shall be sanctioned as and when 1,797 days unauthorized absent period and subsequent 1,806 days service rendered by him are regularized.

8. I have considered the submissions advanced by the learned counsel appearing for the parties.

9. It is pointed out that even after 22 years of retirement of the petitioner, the pension could not be paid even though it is alleged that it is due to non-cooperation and response of the petitioner, the same could not be finalized and paid. The non-finalization and payment of the pensionary benefits to the petitioner even after the long lapse of 22 years deserves deprecation as the pension is not a bounty. The Court also takes note that the petitioner has been denied his right, although the delay may not be fully attributable to the respondents, such treatment meted out to the petitioner in his evening of life is totally unacceptable.

10. Be that as it may, in view of the stand taken by the respondent authorities, I deem it appropriate to dispose of this writ petition with a direction to the respondent authorities to finalize the pension of the petitioner by condoning and regularizing the absent period of 1,797 days which according to the respondent authorities is totalling 1,806 days in different period of his

service. Accordingly, it is provided that the respondent authorities shall condone and regularize the absent and leave totalling 1806 days within a period of 2 (two) months from the date of receipt of the certified copy of this order and thereafter, pay the pension/ consequential pensionary benefits to the petitioner, forthwith.

11. In the event, the response and cooperation is required from the petitioner, it is directed that the petitioner shall extend due cooperation and response to the respondent authorities.

12. Writ petition stands allowed and disposed of, accordingly. However, no order as to costs.

JUDGE

Comparing Assistant