

GAHC010016552024



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

Case No. : WP(C)/627/2024

HAJERA KHATUN
W/O- LT. ABUL HUSSAIN, VILL- DEURIKUCHI, P.O. SONKUCHI, DISTRICT-
BARPETA (ASSAM), PIN- 781301

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCE DEPARTMENT
DISPUR
GUWAHATI-06

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
PANJABARI
JURIPAR
GUWAHATI-37

4:THE DIRECTOR
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
PANJABARI
GUWAHATI-37

5:THE DIRECTOR OF PENSION AND PUBLIC GRIEVANCE DEPARTMENT
ASSAM
HOUSEFED COMPLEX
GUWAHATI-06

6:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
BARPETA
DIST.- BARPETA
PIN- 781301

7:THE TREASURY OFFICER
BARPETA TREASURY
DIST.- BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MR J ISLAM

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

09.04.2024

Heard Mr. J. Islam, learned counsel for the petitioner. Also heard Mr. P. Handique, learned Standing Counsel, P&RD; Mr. C.S. Hazarika, learned Government Advocate and Mr. A. Chaliha, learned Standing Counsel, Treasury.

2. This writ petition has been filed by the petitioner who is aggrieved by non-release of the family pension and other retiral benefits due to her late husband. The late husband of the petitioner was serving as Gaon Panchayat Secretary under Barpeta Zilla Parishad. He entered service under the Panchayat and Rural Development Department and was appointed as Gaon Panchayat Secretary on 18.12.1960 and after serving for about 32 years, the late husband of the petitioner was superannuated on 30.09.1992. The late husband of the petitioner had received the regular scale of pay till his superannuation. Although the pension proposal was sent to the higher authorities, the same was not

proceeded with in due time and as a consequence, the petitioner's late husband was deprived of the pensionary benefits. The service book of petitioner's late husband was also stated to have been misplaced and a new service book was also reconstructed. In the meantime, the petitioner's late husband expired on 01.11.2009. After his expiry, the present petitioner approached the authority requesting them for grant of the family pension and other retiral benefits in respect of the services rendered by her late husband.

3. The question of grant of pension to employees Provincialised under the Panchayat and Rural Development Department is well settled by a Division Bench of this Court in *the State of Assam and Anr. Vs. Syed Md. Fazlay Rabbi (W.A. No. 145/2009)*. In this case, the Division Bench held that with effect from the "effective date", the employees are deemed to be Provincialised and having been Provincialised, they are entitled to be granted pension and other retiral benefits. This Court has authoritatively laid down the law that all employees who were duly Provincialised and were found to be regularly working in the P&RD department are to be granted their pension. The matter was carried to the Apex Court by the State by filing an SLP which also came to be dismissed. Consequently, the law laid down by the Division Bench of this Court in *Syed Md. Fazlay Rabbi (Supra)* has attained finality.

4. Under such circumstances, there is no occasion for the respondent authorities to deny the arrears of pension and/or family pension to the writ petitioner. The Court has permitted the respondent authorities to obtain the required instructions in the matter. However, no specific instructions have been forthcoming save and except the fact that the matter is under active consideration at the department level.

5. The petitioner claims to be the widow of late Abul Hussain and the same is

supported by the next of kin certificate which is enclosed to the writ petition showing the names as wife and the children. Under such circumstances, this Court is of the considered view that the matter need not be kept pending for want of instructions from the department.

6. Taking into consideration the submissions made and upon careful perusal of the writ petition along with the enclosures, this Court is of the view that the matter can be disposed of directing the respondent authorities to examine and verify the claims made by the writ petitioner. After verification, if it is found that the petitioner's late husband had indeed served as Gaon Panchayat Secretary under the Barpeta Zilla Parishad from 18.12.1960 till the date of his superannuation namely 30.09.1992, then there should be no occasion for denial of pension and other family pension benefits to the writ petitioner.

7. The authorities will, thereafter, prepare pension papers and forward to the competent department for grant of family pension and other arrears of benefits to the writ petitioner as claimed.

8. This entire exercise shall be completed by the Commissioner, Panchayat and Rural Development within a period of 60 (Sixty) days from the date of receipt of a certified copy of this order. The petitioner is at liberty to file an application by submitting a certified copy of this order.

9. Accordingly, the writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant