

GAHC010032892024



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

Case No. : WP(C)/1066/2024

JAYA KALITA @ JAYA KALITA DAS
W/O- LATE BHUPEN CH. KALITA, R/O- VILL.- CHAHOGURI, P.O.
BAMUNKATA, P.S. SIMLA, DIST. BAKSA, BTAD, ASSAM, PIN- 781327.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, ASSAM

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

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GHY-6.

4:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19.

5:THE DIRECTOR OF TREASURIES AND ACCOUNTS
ASSAM
DISPUR
GHY-6.

6:THE BODOLAND TERRITORIAL COUNCIL

REP. BY THE SECRETARY
EDUCATION DEPARTMENT
BODOFANAGAR
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

7:THE DIRECTOR OF EDUCATION
BTC

BODOFANAGAR
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

8:THE INSPECTOR OF SCHOOL
BAKSA DISTRICT CIRCLE MUSHALPUR
DIST. BAKSA (BTAD)
ASSAM
PIN- 781372.

9:THE TREASURY OFFICER
MUSHALPUR TREASURY
DIST. BAKSA
BTAD
ASSAM
PIN- 781372.

10:THE HEAD MASTER
SILBARI HIGH SCHOOL
SILBARI
P.O. ANCHALI
P.S. SIMLA
DIST. BAKSA
BTAD
ASSAM
PIN- 781325

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

Date : 28-02-2024

Heard Mr. K.R. Patgiri, learned counsel for the petitioner. Also heard Mr. P. Saikia, learned Government Advocate, Assam, for the respondent no.2, Ms. H. Terangpi, learned Standing Counsel, Secondary Education Department for the respondent nos. 1 & 4, Mr. P. Nayak, learned Standing Counsel, BTC for the respondent nos. 6 & 7 and Mr. R. Borpujari, learned Standing Counsel, Finance Department for the respondent no.3 & 9.

2. The matter pertains in this writ petition to non-payment of provisional family pension to the petitioner.

3. The husband of the petitioner was earlier serving as a Head Teacher at Silbari High School, Baksa and he died while in service on 05.12.2015 leaving behind the petitioner along with two sons and one minor daughter. Accordingly, the petitioner is claiming for her grant of family pension.

4. It has been submitted that the case of the petitioner is covered by the Office OM dtd. 14.06.2016 by which the State Government has introduced a New Defined Contribution Pension Scheme and decided to extend the benefits

of invalid pension/ disability pension and family pension/ extra-ordinary family pension and D.C.R.G. on provisional basis to State Govt. employees appointed on or after 01.02.2005 under the New Defined Contributory Pension Scheme and died in harness or discharged on invalidation/ disability.

5. It has been stated by learned counsel for the petitioner that the husband of the petitioner died while in service on 05.12.2015, and since, his case is covered by the New Define Contribution Pension Scheme, the petitioner would be entitled to provisional pension on the basis of the Office OM dtd. 14.06.2016. Learned counsel for the petitioner further submits that the Pension and Public Grievance Department, Govt. of Assam issued an OM dtd. 18.06.2018 laying down the procedure to be adopted for the purpose of grant of pension under the case of NPS beneficiaries. As per the said order OM dated 18.06.2018, the Director of Accounts Treasuries (DoAT), Assam shall monitor the payment of provisional pension under the Rules.

6. Learned counsel for the respondents, however, submits that if the case of the petitioner is covered under the said scheme, the authority will do the needful for release of the pensionary benefits.

7. Upon perusal of the pleadings on record and upon hearing the learned counsel for the parties, this Court is of the view that the present petition can be

disposed of directing the respondent authorities to release the provisional pension of the petitioner, if found eligible under the OM dated 14.06.2016. Accordingly, the present petition is disposed of directing the respondent authorities to expedite the process and finalize the pensionary benefits of the petitioner, if found eligible under the aforesaid OM dated 14.06.2016, so that the petitioner can enjoy the provisional pension.

8. The aforesaid exercise including verification and payment of provisional pension shall be undertaken by the respondent authorities within a period of 3 (three) months from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant