

GAHC010203022024



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

Case No. : WP(C)/2374/2024

BINA SINGH
W/O RAJANI SINGH

RESIDENT OF VILLAGE NO. 1 GARIMARI
PS AND PO MANGALDOI
DIST KAMRUP M ASSAM 784125

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
PERSONEL DEPARTMENT
DISPUR GUWAHATI 06

2:THE DISTRICT COMMISSIONER
DARRANG MANGALDOI
PO AND PS MANGALDOI
DIST DARRANG
ASSAM 784125

3:THE TREASURY OFFICER

MANGALDOI
PO AND PS MANGALDOI
DIST DARRANG
ASSAM 784125

4:SRI RANGANI SINGH
S/O LATE NARENDRA SINGH
RESIDENT OF VILLAGE NO.1
GARIMARI
PS AND PO MANGALDOI

784125
DIST KAMRUP (M) ASSAM.

For the Petitioner(s) : Mr. M. Rana, Advocate.

For the Respondent(s) : Mrs. M. D. Chowdhury, Advocate
: Mr. J. K. Goswami, Government Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 08.11.2024

The instant writ petition has been filed by the Petitioner seeking a writ in the nature of mandamus that the Respondent Authorities herein should be directed to comply with the order dated 22.02.2024.

2. This Court had put a specific query upon the learned counsel for the writ petitioner as well as also the learned Government Advocate appearing on behalf of the District Commissioner, Darrang, Mangaldoi as to where is the power of the District Commissioner to direct that 40% of the amount of pension and monthly provisional pension be paid to the Petitioner. Neither the learned counsel for the Petitioner nor the learned Government Advocate for the District Commissioner could show any provision which empowers the District Commissioner to do so.

3. This Court has also perused the provisions of the Assam Services (Pension) Rules, 1969 wherein also, there is no mention about such power. It is also relevant herein to mention that the pension is not a bounty of the State and the State under no circumstances can withhold the pension.

4. The Petitioner herein being the wife of the Respondent No.4 has various remedies available under law to seek maintenance but to achieve that, the Petitioner cannot seek a portion of the pension through the Respondent Nos. 1, 2 and 3. Under such circumstances, as the petitioner herein seeks compliance to order dated 22.02.2024 which is without any jurisdiction, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution for which the instant writ petition stands dismissed.
5. It is however observed that the above observations and findings shall not come in the way of the Petitioner to claim maintenance as provided under the provisions of law.
6. The interim order so passed earlier therefore stands vacated.

JUDGE

Comparing Assistant