

GAHC010112242024



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

Case No. : WP(C)/2992/2024

MALA DEKA
W/O- LATE RABIN DEKA,
VILLAGE- AKASHI NAGAR,
P.O- BAMUNIMAIDAM,
P.S- CHANDMARI, GUWAHATI-21, DIST- KAMRUP (M), ASSAM

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION AND 4 ORS
REPRESENTED BY THE COMMISSIONER, GUWAHATI MUNICIPAL
CORPORATION, PANBAZAR, GUWAHATI-1, DIST- KAMRUP (M), ASSAM

2:THE JOINT COMMISSIONER
PERSONAL BRANCH
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1
DIST- KAMRUP (M)
ASSAM

3:THE MUNICIPAL SECRETARY
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1
DIST- KAMRUP (M)
ASSAM

4:THE CHIEF ACCOUNT AND AUDIT OFFICER

ACCOUNTS BRANCH
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR

GUWAHATI-1
DIST- KAMRUP (M)
ASSAM

5:THE ACCOUNTS OFFICER
ACCOUNTS BRANCH
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1
DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR B BURAGOHAIN

Advocate for the Respondent : SC, GMC

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 12-06-2024

Heard Mr. P.K. Gogoi, learned counsel for the petitioner as well as Mr. P. Nayak, learned standing counsel for all the respondents.

2. The case of the petitioner is that at the relevant time the husband of the petitioner was working as an Upper Division Assistant and he was placed under suspension on the allegation of fraudulent withdrawal of GMC fund from the Gauhati Municipal Corporation Account no.10823642869 and it is also projected that a disciplinary proceeding was drawn up against the husband of the petitioner. However, during the pendency of the said proceedings, the husband of the petitioner had superannuated on 07.02.2013. Thereafter, the husband of the petitioner had approached this Court by filing WP(C) 7037/2017 and during the pendency of the writ petition the husband of the petitioner had died on 15.06.2021. The present petitioner was then substituted by this Court.

By order dated 30.01.2023, the WP(C) 7037/2017 was allowed by directing the respondents to verify as to whether the husband of the petitioner had been paid his subsistence allowance during the period of his suspension and whether the husband of the petitioner has been paid his pension as well as the pensionary benefits. It is also provided that upon such verification if the husband of the petitioner was not found paid his subsistence allowance, the respondents were directed to pay the subsistence allowance for the period of suspension as well as arrear pension and other pensionary benefits. The said exercise was required to be done within a period of 2(two) months. The petitioner had submitted a representation on 07.02.2023, but no disbursement has been made to the petitioner, the present writ petition has been filed under Article 226 of the Constitution of India.

3. Heard the learned standing counsel for the GMC in the matter.
4. As the representation of the petitioner dated 07.02.2023 to the Commissioner, GMC has not been responded to, the Court is inclined to direct the Commissioner to dispose of the said representation, if already not disposed of, and a copy thereof be served on the petitioner. The said exercise shall be done within a period of 1(one) month from the date of service of certified copy of this order.
5. It is also provided that if the petitioner is found entitled to the arrear subsistence allowance of her husband, or pension, if any, due from the date of superannuation till his death, and family pension to the petitioner, who is

the wife of Late Rabin Deka, ex-employee of the GMC, the accrued amount shall also be disbursed to the petitioner within an outer period of 3(three) months from the date of receipt of the certified copy of this order.

6. The writ petition stands disposed of in the motion stage in terms of direction as stated hereinbefore, without issuance of notice on the respondents.

JUDGE

Comparing Assistant