

GAHC010122742012



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

Case No. : WP(C)/5441/2012

SMTI USHA DAS
W/O- LT. DHARANIDHAR DAS, R/O VILL.- ABHAYAPUR,
P.O.- GERUA, P.S.- HAJO, DIST.- KAMRUP, ASSAM, PIN- 787001.

VERSUS

1: THE CHAIRMAN, ASEB and 4 ORS NOW RECHRISTEN AS APDCL, BIJULI BHAWAN, PALTON BAZAR, GHY- , DIST.- KAMRUP M, ASSAM.

2: THE CHIEF ENGINEER ASEB NOW RECHRISTEN AS APDCL BIJULI BHAWAN PALTON BAZAR GHY- DIST.- KAMRUP M ASSAM.

3: THE CHIEF GENERAL MANAGER SENIOR ACCOUNT OFFICER ASEB NOW RECHRISTEN AS APDCL BIJULI BHAWAN PALTON BAZAR GHY- DIST.- KAMRUP M ASSAM.

4: THE SUB-DIVISIONAL OFFICER HAJO ELECTRICAL SUB DIVISION LAAPDCL HAJO DIST.- KAMRUP ASSAM.

5: THE ACCOUNTS OFFICER F and P ASEB NOW RECHRISTEN AS APDCL NARENGI GHY- 26 DIST.- KAMRUP M ASSAM

Advocate for the Petitioner : MS.R GOGOI

Advocate for the Respondent : SC, A S E B

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 21-03-2024

Heard Mr. P.J. Saikia, learned counsel for the petitioner. Also heard Mr.

J.K. Goswami, learned standing counsel, APDCL, appearing for all the respondents.

The present proceeding has been instituted by the petitioner seeking monthly pension and other pensionary benefits on account of the services rendered by her husband in the erstwhile Assam State Electricity Board (ASEB), now renamed as Assam Power Distribution Company Limited (APDCL). The husband of the petitioner, while working as a Lineman-II under the respondent authorities, died in harness on 14.03.1990 leaving behind the petitioner and their children as his legal heirs.

Pursuant to the death of the husband of the petitioner, the respondent authorities released to the petitioner an amount of ₹ 88,129.20 (Rupees Eighty Eight Thousand One Hundred Twenty Nine and Twenty Paissa), which includes an amount of ₹ 59,773.10 (Rupees Fifty Nine Thousand Seven Hundred Seventy Three and Ten Paissa) being the CPF accumulation amount and ₹ 28,356.10 (Rupees Twenty Eight Thousand Three Hundred Fifty Six and Ten Paissa) being the Death-cum-Retirement Gratuity (DCRG) amount. The petitioner had received the said amount on 03.07.1991. Thereafter, the present proceedings were instituted on 08.11.2012 praying for release of an amount of ₹ 37,00,000/- (Rupees Thirty Seven Lakhs) purportedly receivable by her husband on account of the services rendered by him as well as the pension working out since the date of the death of the husband of the petitioner.

The above contention of the petitioner was disputed by the respondents by contending that the petitioner was covered under the Contributory Provident Fund (CPF) Scheme and had not been covered during his lifetime under the Pension Scheme. It is the contention of the learned standing

counsel, APDCL that the Pension Scheme was made effective from 16.11.1995 and the Scheme was named "Employees' Pension Scheme, 1995". It was also highlighted that prior to the coming into effect of the Pension Scheme, in the year 1991 the employees covered under the CPF Scheme were permitted to submit options for coming over to the pension-cum-DCRG Scheme. However, the husband of the petitioner having expired on 14.03.1990 and the policy permitting employees covered under the CPF Scheme to give options in the year 1991 not being given retrospective effect, the services of the petitioner's husband could not be covered under the Pension-cum-Gratuity Scheme.

In the above view of the matter, the grievance as raised by the petitioner herein before this Court cannot be entertained inasmuch as the petitioner's husband was never covered under the Pension-cum-DCRG Scheme and the Scheme subsequently as introduced in the Company was so introduced prospectively and the same was not given any retrospective effect covering the periods prior to the death of the husband of the petitioner.

Accordingly, the writ petition is held to be without any merit and the same stands dismissed. However, there would be no order as to cost.

At this stage, Mr. Saikia, learned counsel for the petitioner submits that the petitioner has submitted RTI application seeking information with regard to the manner in which pension and pensionary benefits were disbursed to persons who were in service along with her husband.

It is provided that in the event any such information is made available to the petitioner and the same establishes any of her rights, she is at liberty to approach the respondent authorities by way of preferring an appropriate application and the dismissal of the present proceedings will not stand as a bar

for consideration of such application.

JUDGE

Comparing Assistant