

GAHC010155262022



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

Case No. : WP(C)/5278/2022

ON THE DEATH OF ATINDRA NATH SEN, HIS LEGAL HEIR RITA SEN @
RITA RANI SEN
W/O.LATE ATINDRA NATH SEN, R/O. NO.414 GT ROAD (NORTH), DIST.
HOWRAH, PIN-711101, WEST BENGAL.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PUBLIC
WORKS DEVELOPMENT, DISPUR.

2:THE CHIEF ENGINEER

PWD
(ROADS) ASSAM
CHANDMARI
GUWAHATI-03.

3:THE SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT.
DISPUR
GUWAHATI-06.

4:THE CHIEF PUBLIC HEALTH ENGINEER

ASSAM
GUWAHATI-06.

5:THE MANAGING DIRECTOR

FOOD CORPORATION OF INDIA

16-20 BARAKHAMBA LANE
NEW DELHI-110001.

6:THE REGIONAL MANAGER

FCI
ASSAM REGION
ULUBARI
GUWAHATI-07.

7:THE ACCOUNTANT GENERAL

ASSAM MAIDAMGAON
KRISHNAPUR
BELTOLA TINIALI
GUWAHATI-781029

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : SC, PWD

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 01.04.2024

Heard Ms. S.B.Choudhury, learned counsel for the petitioner. Also heard Mr. R.K.Talukdar, learned Standing Counsel, Accountant General; Ms. D. Borah, learned Standing Counsel, PWD; Mr. I. Borthakur, learned Standing Counsel, PHE and Mr. B.K. Singh, learned Standing Counsel, FCI.

2. This writ petition is filed by the petitioner, who is the widow and legal heir of late Atindra Nath Sen. The grievance of the petitioner is that the late husband of the petitioner was initially employed as Subordinate Engineer in the Office of the Chief Engineer, P.W.D., Assam on 04.09.1963 and he served there till 04.11.1975. Subsequently, he went on deputation to the Office of the Chief Public Health Engineer (Assam) as an Assistant Engineer with effect from

05.11.1975 to 03.12.1976. The late husband of the petitioner thereafter further went on deputation to the Food Corporation of India (FCI), Regional Office as an Assistant Manager, FCI with effect from 03.12.1976 to 14.12.1980. Thereafter he was subsequently placed in the Office of the Personnel Manager, GRSE Ltd., (Government of India) 43/46, Garden Reach Road, Kolkata as Personnel Manager (GRSE) from 15.10.1998 till 31.05.2004.

3. Pursuant to his superannuation he has approached his parent department, namely, the PWD Department, Government of Assam for release of his pensionary benefits. However, the same has not been released. The petitioner's late husband was requested to furnish all necessary documents which was duly furnished before the authority, however, in spite of that, his pensionary benefits were not released. As the late husband of the petitioner was fairly advanced in age, he had executed a Special Power of Attorney in favour of his son, Sri Abhishek Sen as his Attorney to do all acts on his behalf and approached the various authorities.

4. During the pendency of the writ petition, the petitioner expired and in his place, his legal heir, namely, his wife, Rita Sen @ Rita Rumi Sen has been substituted as the petitioner.

5. Notice in the matter was issued as far back as 25.01.2023. On subsequent dates, the learned counsels for the respondents were permitted opportunities to obtain their required instructions in the matter.

6. Today, when the matter is called up, the learned Standing Counsel, PWD submits that as per the information available in the office, the petitioner had left the Department of PWD on 04.11.1997 on his new assignment as Assistant Engineer in the Assam Public Health Department.

7. The learned Standing Counsel representing the PWD submits that pursuant to his release from PWD, there is no record of rejoining in his parent department. He, therefore, submits that the department does not have any documents to process his pension papers. If the petitioner approaches the department and furnishes the necessary papers required by the departmental authority, then the same can be processed accordingly.

8. Learned counsel appearing for the petitioner submits that pursuant to the expiry of her late husband, the present writ petitioner had approached the authorities, but no information was forthcoming. It is also fairly submitted that she does not have any documents available in respect of the service of her late husband.

9. Having heard the learned counsels for the parties and upon careful consideration of the pleadings on record, it is seen that there is no dispute that the late husband of the petitioner was employed initially under the PWD and thereafter he was deputed out of the PWD department. The learned Standing Counsel for the PWD, on the other hand, submits that there is no record of the late husband of the petitioner joining back in the parent department. He submits that if any documents can be furnished by the petitioner, then department will take all steps to process the pension papers pertaining to the late husband of the petitioner. He submits that in her interest, the petitioner should approach the department and furnish whatever documents are available with her. Such suggestion by the learned counsel for the respondent is not objected to by the counsel for the petitioner.

10. As there is no dispute that the petitioner's late husband's parent department was the PWD, Government of Assam, also taking into consideration submissions of the learned counsels, this Court is of the view that the writ

petition can be closed permitting the petitioner to file proper representation before the respondent No.2, the Chief Engineer, PWD and who in turn will examine the claims of the writ petitioner and provide her with copies of all relevant documents as may be necessary to process the pension papers of her late husband.

11. If any such representation is preferred by the writ petitioner, the same shall be examined and appropriate orders be passed within a period of 60 (sixty) days from the date of receipt for such a representation, along with a certified copy of this order.

12. Writ petition stands disposed of in terms of the above. No order as to cost.

JUDGE

Comparing Assistant