GAHC040012082026

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

Case No. : WP(C)/360/2026

Smti Sunita Yobin
Wife of Late Khulini Yobin, resident of Vijaynagar, Dawodi, Changlang District, Arunachal Pradesh.

VERSUS

The State of AP and 4 Ors
represented by the Commissioner, Education Department Govt of Arunachal Pradesh, Itanagar. 2:The Director (Elementary Education)
Age: 0
Occupation :
Education Department
Govt of Arunachal Pradesh
Itanagar.

3:The Deputy Director of School Education
Age: 0
Occupation :
Changlang District
Arunachal Pradesh.

4:The Director of Audit and Pension
Age: 0
Occupation :
Govt of Arunachal Pradesh
Mini Secretariat
Naharlagun
Papum Pare District
Arunachal Pradesh 791111

5:The Accountant General (A and E)
Age: 0
Occupation :

Govt of Arunachal Pradesh
JNK Building Sector E
Itanagar
Papum Pare District
Arunachal Pradesh. 79111

Advocate for the Petitioner : Reniyam Takam, Mitem Ratan

Advocate for the Respondent : GA (AP), SC (Education),Taba Tagum

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 07.08.2026

Heard Ms. S. Mitkong, learned counsel, appearing for the petitioner. Also heard Mr. T. Tagum, learned Standing Counsel, Education Department, appearing for the Respondent Nos.1, 2 and 3 and Mr. D. Kamduk, learned Additional Advocate General, appearing for the Respondent No.4.

2. As agreed to by the learned counsel for the parties, the present writ petition was taken up for final consideration, at the motion stage itself, and is being disposed of by the present order.

3. The petitioner in the present writ petition has prayed for a direction upon the Respondent Authorities for authorizing to her family pension and other pensionary benefits in pursuance to

the death of her husband in harness.

4. The petitioner, herein, is the wife of late Kholini Yobin.The husband of the petitioner was initially appointed as a Primary Teacher under the Sarva Shiksha Abhiyan. The services of the husband of the petitioner was regularized as a Primary Teacher (PRT) w.e.f.01-11-2020, vide an order dated 02-11-2020. While the husband of the petitioner was serving as a Primary Teacher, he was arrested on 17-03-2023,in connection with Mioa Police Station Case No.3/2023 and being detained incustody beyond 48 (forty) hours, the husband of the petitioner was placed under suspension, vide an order dated 24-05-2023.

While the petitioner's husband was under suspension, it is projected that he died an unnatural death on 06-09-2025.The name of the petitioner being recorded as nominee in the service book of her husband, the petitioner approached the Respondent Authorities, praying for authorization to her, the pension and pensionary benefits in connection with the services rendered by her husband. It is projected that vide a communication dated 03-03-2026, the Deputy Director of School Education, Changlang District, Changlang, required the petitioner to pursue the matter for revocation of the suspension order issued in

respect of her husband,with the Directorateof Elementary Education, Government of Arunachal Pradesh, and she was further directed to produce succession certificate/legal heir certificate, for processing of her family pension proposal and also for authorizing to her pensionary benefits, which would be required to be so authorized by the Department. The Respondent Authorities having not process the family pension proposal of the petitioner, the petitioner, being aggrieved,has instituted the present writ petition.

5. Ms. S. Mitkong, learned counsel, appearing for the petitioner, at the outset has submitted that although theservices of the husband of the petitioner was regularized, vide an order dated 02-11-2020, in terms of Office Memorandum (OM)dated 21-06-2023, more particularly Clause 5, thereof, the husband of the petitioner having died in harness before completion of service of 15 (fifteen) years and within a period of 3 (three) years from the date of issuance of the said OM, the petitioner would be entitled to family pension in terms of the provisions of the CCS (Pension) Rules, 2021.

5.1. The learned counsel for the petitioner has submitted that the suspension effected in respect of the husband of the

petitioner, vide an order dated 24-05-2023, stood automatically revoked on his death and there was no further requirement for issuance of any order revoking such suspension. She submits that no Departmental proceeding having been instituted and concluded against the husband of the petitioner during his lifetime, no such proceeding would be permissible to be so instituted pursuant to his death and accordingly, the period of suspension of her husband has to be regularized as on duty along with release of the due salaries for the said period, after deducting the subsistence allowance drawn by her husband.

5.2. Ms. S. Mitkong, learned counsel for the petitionersubmits that in view of the above position and also in the light of the provisions of the Office Memorandum dated 21-06-2023, the petitioner being the wife of the deceased Government servant is entitled, to be authorized family pension in respect of the services rendered by her husband, along with other admissible pensionary benefits.

6. Mr. T. Tagum, learned Standing Counsel, Education Department, appearing for the Respondent Nos.1, 2 and 3, on instructions, has submitted that the Departmental Authorities are processing the case of the petitioner for preparation of a

proposal forsubmission to the Director of Audit and Pension, Government of Arunachal Pradesh, for authorizing to the petitioner a family pension. He further submits that within a period of 01 (one) month, the said proposal would be finalized and submitted to the Director of Audit and Pension, along with release to the petitioner, other retirement benefits like Leave Encashment, GIS, GPF, etc.

7. Mr. D. Kamduk, learned Additional Advocate General, appearing for the Respondent no.4, submits that on the proposal in respect of authorization to the petitioner, family pension, is received complete in all respect, from the Education Department, the Directorate of Audit and Pension, Government of Arunachal Pradesh, shall expeditiously process the same and authorize the family pension to the petitioner, herein, along with other retirement benefits, if any, to be so authorized.

8. I have heard the learned counselfor the parties and also perused the materials available on record.

9. The husband of the petitioner after having served under the Sarva Shiksha Abhiyan, was regularized as a Primary Teacher (PRT),vide an order dated 02-11-2020. Thereafter, the husband of the petitioner was placed under arrest in connection

with Miao P.S. Case No.03/2023, under Section 21(b)/27(a) of NDPS Act, and having remained in custody for more than 48 hours, the husband of the petitioner was vide an order dated 24-05-2023, issued by the Commissioner (Education) Government of Arunachal Pradesh, placed under suspension.While under suspension, it is found that the husband of the petitioner had passed on, on 06-09-2025. The petitioner, thereafter, is found to have approached the Respondent Authorities for being authorized her family pension and other retirement benefits due to her on account of the services rendered by her husband. However, the Respondent Authorities had not processed the same.

10. This Court finds from the materials brought on record that the Deputy Director of School Education, Changlang District, had required the petitioner to pursue the matter for revocation of suspension of her husband, with the Directorate of Elementary Education, Government of Arunachal Pradesh. The said requirement made upon the petitioner, in the considered view of this Court, was uncalled for.

11. The services of the husband of the petitioner having been regularizedvide the order dated 02-11-2020 w.e.f.01-11-

2020, it is found that the petitioner's husband would otherwise be covered by the provisions of the New Pension Scheme (NPS). However, it is seen that the Finance Department, Government of Arunachal Pradesh, vide an Office Memorandum dated 22-09-2023, had extended the benefit of Family Pension to NPS subscribers.In paragraph-5 of the said Office Memorandum, it was stipulated that where a NPS subscriber dies or is discharged from Government service on invalidation or disability, before completion of service of 15 (fifteen) years or within 03 (three) years from the date of issuance of the saidOM and who had not exercised the option and was also not in a position to exercise the option, atthe time of discharge, the nominee would be granted family pension or invalid pension or disability pension as the case may be, in accordance with the provisions of the CCS (Pension) Rules, 2021 or CCS (Extraordinary Pension) Rules, 2023, as applicable, by deeming it to be the default option.

12. The husband of the petitioner was regularizedw.e.f.01-11-2020 and accordingly, he had not completed 15 (fifteen) years of regular service on the date of his death. Further, the death of the husband having occasioned on 06-09-2025, it is found that the same had so occasioned within a period of 03

(three) years from the date of issuance of the saidOffice Memorandum dated 22-09-2023. Accordingly, in view of the default option coming into operation, the petitioner, herein, being the wife of the deceased Government servant, would be entitled to be authorized family pension and other pensionary benefits under the provisions of the CCS (Pension) Rules, 2021.

13. The Court finds that the petitioner at the time of his death in harness was under suspension. It is further not brought on record that during the lifetime of the petitioner, a Departmental proceeding was instituted against him and concluded and/or the criminal proceeding instituted against him had also been concluded. In view of the death of the petitioner's husband, the criminal proceeding instituted against him stood abated. Further, no Departmental proceeding would now be permissible to be so instituted in the matter, by the Departmental Authorities.

14. Accordingly, the suspension ordered in the case of the husband of the petitioner not having beenjustified, the period of suspensioninvolved would now be required to be regularized as on duty and the salaries for the period of suspension undergone by the husband of the petitioner would

have to be computed and released, which would now have to be so released to the petitioner, herein.

15. In view of the above discussion, the petitioner being found to be entitled by this Court to receive family pension and the other retirement benefits in respect of the services rendered by her husband,the following directions are issued;

(i) The Department of Education, would now process the matter for preparation of a family pensionproposal in respect of the petitioner, herein, by deeming her to be eligible to receive family pension, in respect of the services rendered by her husband,in terms of the provisions of the Office Memorandum dated 22-09-2023.

(ii) The Departmental Authorities shall regularize the period of suspension undergone by the husband of the petitioner w.e.f. 17-03-2023,till the date of his death i.e. on 06-09-2025 and release to the petitioner, the arrears of salary for the said period after deducting the subsistence allowance that has been drawn by the husband of the petitioner.

(iii) The respondents in the Education Department, shall finalize the family pension proposal of the petitioner within

a period of 01(one) month from the date of receipt of a certified copy of this order and release to the petitioner on conclusion of the said period of 01 (one) month, the retirement benefits like Leave Encashment, GIS etc., which are to be so released by the Department concerned to the pensioner/family pensioner.

(iv) The pension proposal directed to be so prepared, hereinabove, shall be forwarded to the Director of Audit and Pension, Government of Arunachal Pradesh.

(v) The Director of Audit and Pension, Government of Arunachal Pradesh, on receipt of family pension proposal in respect of the petitioner, herein, shall process the same and authorize to the petitioner,a family pension along with other retirement dues which are to be so authorized by the said authority.

(vi) The petitioner be authorized her family pension and other permissible retirementbenefits by the Director of Audit and Pension, within a period of 01 (one) month from the date of receipt of the proposal in this connection from the Department of Education.

(vii) The amounts due to the petitioner on regularization of

the period of suspension of the husband of the petitioner be released to her within a period of 01 (one) month from the date of receipt of a certified copy of this order after deducting the subsistence allowance already received by her husband.

(viii) The Respondent Authorities are directed to comply with the timelines set out, hereinabove, by this Court, for authorizing to the petitioner her family pension and other pensionary benefits.

16. With the above observations and directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant