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

Case No. : WP(C)/3203/2026

DR BIREN CHANDRA BORAH
SON OF LATE SADHI RAM BORAH, RESIDENT OF FLAT NO. B1E, PARLAY RESIDENCY HOUSING SOCIETY, TRIPURA ROAD, JAYA NAGAR, P.O. KHANAPARA, P.S. BASISTHA, IN THE DISTRICT OF KAMRUP METRO, ASSAM, GUWAHATI - 781022.

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REPRESENTED BY THE SECRETARY, GOVERNMENT OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, BLOCK - D, THIRD FLOOR, ASSAM SECRETARIAT, DISPUR, GUWAHATI - 781006, ASSAM.

2:THE PRINCIPAL SECRETARY
GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM.

3:THE COMMISSIONER AND SECRETARY GOVERNMENT OF ASSAM

FINANCE (ESTT- A) DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM.

4:THE PRINCIPAL SECRETARY GOVERNMENT OF ASSAM
PERSONNEL DEPARTMENT
ASSAM SECRETARIAT

DISPUR
GUWAHATI - 781.006
ASSAM.

5:THE COMMISSIONER SECRETARY GOVERNMENT OF ASSAM

PERSONNEL (B) DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM.

6:THE COMMISSIONER SECRETARY GOVERNMENT OF ASSAM

PERSONNEL (A) DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM.

7:THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI - 781029.

8:THE LEGAL REMEMBRANCE GOVERNMENT OF ASSAM
JUDICIAL DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM

9:THE COMMISSIONER SECRETARY GOVERNMENT OF ASSAM

DEPARTMENT OF TRIBAL AFFAIRS PLAIN DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781006
ASSAM.

10:THE DIRECTOR

S.C.E.R.T.
ASSAM
KAHILIPARA
GUWAHATI - 781 019

ASSAM

Advocate for the Petitioner : PETITIONER IN PERSON,

Advocate for the Respondent : SC, ELEM. EDU, SC, TRIBAL AFFAIRS (PLAIN),SC, AG (A AND E),SC, SCERT, ASSAM,GA, ASSAM,SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 24.06.2026

Heard Dr. Biren Chandra Borah, Petitioner appearing in person. Also heard Mr. P K Borah, Learned Standing Counsel, Department of School Education, Assam, Mr. A Chaliha, Learned Standing Counsel, Department of Finance, Assam, and Mr. R K Talukdar, Learned Standing Counsel, Accountant General (A&E), Assam and Mr. R Dhar, Learned Addl. Senior Government Advocate.

2. The Petitioner, in the present Writ Petition, projects that while he was serving as an Additional Director, S.C.E.R.T, Assam, had retired from his services, on reaching the age of superannuation, w.e.f 31.01.2021. It is submitted that the pension and other pensionary benefits were authorized to the Petitioner, much after his date of superannuation and no reason has been assigned by the Respondent authorities for the delay

occasioning in authorization to the Petitioner, his pension and pensionary benefits.

3. Accordingly, the Petitioner has instituted the present Writ Petition, praying for grant of interest, on account of the delayed authorization to him of his pension and other pensionary benefits.

4. The provisions of Rules 197(A) of the Assam Services (Pension) Rules, 1969, mandate the procedure to be so followed, for payment of interest, on account of delayed payment of Pension and Gratuity.

4. The provisions of Rule 197(A) of Rules of 1969, being relevant, is extracted, hereinbelow :

> ***"197-A. Interest on delayed payment of Pension and Gratuity- (1) If the payment of pension and gratuity has been authorized later than the date when its payment becomes due him and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rates as specified under sub-rule (b) of this rule and the instructions issued by the Government from time to time:***
>
> ***Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedures laid down by the Government from time to time for processing his pension papers.***
>
> ***(2) Every case of delayed payment of pension and gratuity shall be considered by the Secretary of the Department in respect that the delay in payment of pension and gratuity was caused on offices and where the Secretary of the Department is satisfied of his employees and employees of its attached***

and sub-ordinate account of administrative lapses the Secretary of the Department shall sanction payment of interest with the concurrence of Pension and Public Grievances Department at such rate, as prescribed under sub-rule (6) below:

(3) In all cases where the payment of interest has been shall fix the responsibility and take disciplinary action against the Government servant (S) who is/are found responsible for the sanctioned by the Secretary of the department, such Department delay in payment of pension/gratuity and the erring officials shall be made to compensate the Government for the loss sustained by the Government for such negligence/lapse, leading to payment Department or Heads of the Department to fix responsibility for of interest. It shall be mandatory on the part of the Administration Government servant concerned without any exception under any the Government for lapses of circumstances whatsoever."

5. A perusal of the provisions of Rule 197(A), more particularly Sub-Rule (2), thereof, would reveal that it is mandated, therein, that in every case of the delayed payment of Pension and Gratuity, the delay occasioning in the matter, shall be considered by the Secretary of the Department and where the Secretary of the Department is satisfied that the delay in payment of Pension and Gratuity, was caused on account of the administrative lapses, the Secretary of the Department shall sanction payment of interest, with concurrence of the Pension and Public Grievances Department, at such rate, as is prescribed.

6. The Secretary, in terms of the provisions of Sub-rule (3), is also required to be fix responsibility and take disciplinary

action against the Government Servant(s) who is/are found responsible for the delay in payment of Pension/Gratuity, to the Pensioner concerned.

7. In view of the above provisions of Rule 197(A), this Court is of the considered view that the Petitioner, at the first instance, is to approach the Commissioner and Secretary, Department of School Education, Assam, with his claim for payment of interest for the delay occasioning in authorizing to him, his pension and pensionary benefits.

8. The Petitioner in person, on being apprised about the provisions of Section 197(A), has also agreed that he would approach the Commissioner & Secretary, Government of Assam, Department of School Education, Assam, with a representation praying for authorizing to him, interest for the delayed payment of his pension and pensionary benefits.

9. In view of the above, the Petitioner is required to submit a representation before the Commissioner & Secretary, Government of Assam, Department of School Education, Assam, setting out, therein, the details, with regard to the date of his

retirement and the date on which he was authorized his pension and pensionary benefits. The Petitioner shall, in the said representation, stake a claim for being paid interest for the delay occasioning in authorizing to him, his pension and pensionary benefits. Such representation be filed within a period of 15 (Fifteen) days from today.

10. The Commissioner & Secretary, Government of Assam, Department of School Education, Assam, on receipt of such representation from the Petitioner, along with a certified copy of this Order, shall process the same strictly, in accordance with the procedure, laid down in the provisions of the Rule of 197(A) of the Assam Services (Pension) Rules, 1969, and thereafter, pass a speaking order in the matter.

12. In the event, the Secretary is of the considered view that the Petitioner is not entitled to any interest, reasons for arriving at such conclusion, shall be recorded and communicated to the Petitioner, in the form of a speaking order.

13. The Commissioner & Secretary, Government of Assam, Department of School Education, Assam, shall initiate and

complete the process involved, within a period of 3 (Three) months, from the date of receipt of the representation, along with a certified copy of this order from the Petitioner.

14. With the above observations and directions, the present Writ Petition stands disposed of.

JUDGE

Comparing Assistant