GAHC010165722020

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

Case No. : WP(C)/5010/2020

DR. K LAKSHMITON SINGHA
SENIOR MOST ASSOCIATE PROFESSOR AND PRINCIPAL IN CHARGE (NOW REGD.), CACHAR COLLEGE, SILCHAR, CACHAR, ASSAM, PIN-788001.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PENSION AND PUBOIC GRIEVANCES DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF PENSION

3:THE PRINCIPAL SECRETARY

4:THE COMMISSIONER AND SECRETARY

5:THE DIRECTOR OF HIGHER EDUCATION

6:THE GOVERNING BODY OF THE CACHAR COLLEGE

7:THE ACCOUNTANT GENERAL

8:THE TREASURY OFFICE

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 02-12-2020

Heard Ms. SB Choudhury, learned counsel for the petitioner. Also heard Mr. K Gogoi, learned standing counsel for the Higher Education Department and Mr. A Chaliha, learned counsel for the Finance Department, Government of Assam.

2. The petitioner, who retired from service as the Vice-Principal and Principal-in-Charge of the Cachar College Silchar on 30.06.2019 is aggrieved to the extent that the pension and other retirement benefits had not been paid to her. Being aggrieved, this writ petition has been instituted.

3. A communication from the Director of Higher Education, Assam dated 05.11.2020 addressed to the Principal Cachar College which is placed on record which shows that the pension papers and the leave encashment benefits proposal in respect of the petitioner had been returned to the college vide office letter No.DHE/PEN/46/2020/124 dated 28.07.2020 so that the objections raised are answered and the proposal is resubmitted for further consideration.

4. The communication further indicates that inspite of it having been sent on 28.07.2020, the Principal of the college concerned had not responded. It is to be understood that as because the matter is stuck at that stage that the Principal concerned is not responding by meeting the objections and resubmitting the pension papers, the further process of pension in respect of the petitioner could not be carried out.

5. As it is a matter of payment of pension, we are of the view that instead of issuing notice to the effect of impleading the Principal of the college as a party respondent in the present proceeding, we are of the view that ends of justice would be better served if a direction is issued to the Director of Higher Education, Assam to pursue the matter with the Principal of the college on the administrative side to ensure that the Principal does comply with the requirements of the office letter dated 28.07.2020. The same would be within the realm of administrative power of the Director of Higher Education. If the Principal is not favourably responding, the Director may resort to any method available under the law including initiating a disciplinary action against the Principal.

6. The requirement may be done at the earliest as it is a matter of payment of pension to a retired employee.

7. It is brought to our notice that even the provisional pension has not been paid to the petitioner. Rule 22 of the Assam *Service* (*Pension*) Rules*,* 1969 makes it mandatory for the authorities to pay atleast the provisional pension even if any proceeding, both departmental as well as criminal, is either pending or contemplated against an employee concerned. In other words, the provisional pension is to be paid under any circumstance to a retired employee.

8. From the said point of view, a direction is also issued to the respondent authorities to assess the provisional pension that the petitioner may be entitled and be paid to her till such final pension is settled and the same be paid from the month of January, 2021 onwards.

9. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant