GAHC010006642026

2026:GAU-AS:1229

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

Case No. : WP(C)/425/2026

FARHANA KHANAM
W/O LATE MD. MONZUR AHMED KHAN, R/O VILL. TAKIPUR, P.O. KAYASTHAGRAM, P.S. DISST. SRIBHUMI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY., DEPTT. OF SCHOOL EDUCATION, ASSAM, DISPUR, GHY 06

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCE DEPARTMENT
DISPUR
GUWAHATI - 06

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI -19

4:THE DIRECTOR OF PENSION AND PUBLIC GRIEVANCES
HOUSEFED COMPLEX
DISPUR
GUWAHATI - 06

5:THE DIRECTOR OF ACCOUNTS AND TREASURIES
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI - 06

6:THE INSPECTOR OF SCHOOLS
SRIBHUMI
PO AND DISTRICT SRIBHUMI
ASSAM

PIN - 700048

7:THE TREASURY OFFICER
SRIBHUMI
PO AND DIST. SRIBHUMI
ASSAM
PIN - 78871

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR

Advocate for the Respondent : GA, ASSAM, SC, FINANCE DEPTT.,SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 02.02.2026

Heard Mr. M. Khan, learned counsel for the petitioner. Also heard Ms. N. M. Sarma, learned Standing Counsel for the Secondary Education Department; Mr. G. Pegu, learned Government Advocate, for the respondent Nos. 2 & 4 and Mr. A. Chaliha, learned Standing Counsel for the Finance Department.

[2.] Having regard to the grievance projected by the petitioner, the same is taken up for disposal at this stage.

[3.] By filing this writ petition, the petitioner, who is the widow of the late Government Servant prays for Family Pension under the Old Pension Scheme i.e., the Assam Services (Pension) Rules, 1969 (in short Old Pension Scheme). She is otherwise getting pension as per the New Defined Contribution Pension Scheme, 2009 (in short New Pension Scheme), which has been applied with effect from 01.02.2005.

[4.] Mr. M. Khan, learned counsel for the petitioner has tried to impress upon this Court that since the selection process for appointment of the husband of the petitioner was initiated way back in 1999 but culminated into his appointment only on

14.07.2005 and therefore in view of the various decisions of the Apex Court, as the process had already started prior to the introduction of the New Pension Scheme, the petitioner would squarely be governed by the Old Pension Scheme. He, therefore, prays for appropriate directions to the respondents authorities to grant the petitioner Family Pension as per the Old Pension Scheme.

[5.] It is noticed that the petitioner had earlier approached this Court by filing WP(C) No. 2261 of 2016, which came to be disposed of vide Order dated 08.06.2016 (Annexure – 7). This Court by disposing of the writ petition had directed the respondents to grant her Family Pension under the New Defined Contribution Pension Scheme of 2009 within a time frame. It was importantly observed that there was no dispute that the service of the petitioner's husband comes under the New Defined Contribution Pension Scheme, 2009 and that he will not come under the purview of the Assam Service (Pension) Rules, 1969.

[6.] Situated, thus, it would not be open in the considered view of this Court for petitioner to now seek Family Pension under the Old Pension Scheme, since the petitioner admittedly has not challenged the observation which was made and the said Order in fact has also been acted upon by granting the petitioner the Family Pension as per the New Pension Scheme, which is clearly admitted by the petitioner, herself.

[7.] Under the circumstance, I find no ground to entertain this writ petition and the same stands dismissed.

JUDGE

Comparing Assistant