

GAHC010053062024



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

Case No. : WP(C)/1520/2024

DIBAKAR MALI
SON OF LATE GHANA KANTA MALI, HOUSE NO.- 32, PRABHAT BORO
PATH, DHIRENPARA, AMBARI FATASIL, GUWAHATI, ASSAM, PIN- 781025

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION AND 5 ORS.
REPRESENTED BY ITS COMMISSIONER, PANBAZAR, GUWAHATI-1

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PAN BAZAR
GUWAHATI- 781001

3:THE CHIEF ENGINEER
GUWAHATI MUNICIPAL CORPORATION
UZANBAZAR
GUWAHATI- 781001

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

5:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI- 781006

6:THE DIRECTOR OF PENSION

ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI- 78100

Advocate for the Petitioner : MR. A K BARUAH

Advocate for the Respondent : SC, GMC

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

09.04.2024

Heard Mr. A.K. Baruah, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned Standing Counsel, Guwahati Municipal Corporation (GMC) and Mr. B. Sarma, learned Standing Counsel, Accountant General, Assam.

2] This writ petition is filed by the petitioner seeking direction to the respondents for release of pension which has not been released to the petitioner till date. The petitioner was employed as an Executive Engineer in Guwahati Municipal Corporation and superannuated on 30.06.2023. Learned counsel for the petitioner submits that as per order dated 28.09.2023 issued by the Commissioner, GMC, he was informed that the charges in the disciplinary proceedings against the petitioner could not be established due to lack of sufficient evidence and therefore, the Disciplinary proceeding case drawn against the petitioner had been disposed of and the period of suspension with

effect from 26.10.2021 to 23.03.2022 is treated to be on duty. Learned counsel for the petitioner submits that in view of this order there should be no Bar to the respondents to release the regular pension of the petitioner, at least, for present the provisional pension should be released to the petitioner. He further submits that the criminal proceedings which are stated to be pending are still under investigation and no charge-sheet has been filed to the best of his information.

3] Mr. P. Nayak, learned Standing Counsel, GMC, however, submits that there are 2 (two) cases which are pending against the petitioner lodged by the Chief Minister Special Vigilance Cell. In respect of one such case, the departmental proceedings have been concluded, whereas in respect of the other, the matter is still alive and pending.

4] Learned counsel for the petitioner submits that the provision of Assam Service (Pension) Rules, 1969 is not applicable to the employees of the GMC as they governed by separate pension Rules.

5] Be that as it may, since a departmental proceeding as well as a criminal proceeding is still pending against the petitioner, the regular pension of the petitioner could not be released, however, the matter is under active consideration before the concerned authorities for release of provisional pension

towards the claims made by the writ petitioner. It is submitted that the Department will take a decision within a short date to consider and release the provisional pension towards the claims of the petitioner and accordingly, he prays for some time.

6] In view of the above, list the matter again on 10.05.2024.

JUDGE

Comparing Assistant