

GAHC010056922020



2026:GAU-AS:7264

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

Case No. : WP(C)/2639/2020

MINA DEKA
W/O. LT. THIREN DEKA, VILL. CHENGA, P.O. CHENGA, P.S. TARABARI,
DIST. BARPETA, ASSAM, PIN-781305.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION ELEMENTARY DEPTT., DISPUR, GHY.-06.

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

3:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06.

4:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM

KAHILIPARA
GUWAHATI-19.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

6:THE DY. INSPECTOR OF SCHOOLS

BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

7:THE DIRECTOR OF PENSION

ASSAM
HOUSE FED COMPLEX
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR H TALUKDAR, MS L HMAR,MR. K KALITA,MR. M AHMED,MR. I H SAIKIA,MR. R SARMA

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

BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN
ORDER

22.05.2026

Heard Mr I H Saikia, learned counsel for the petitioner and Ms S Konwar, learned Standing Counsel for the Elementary Education Department and Mr P Saikia, learned Government Advocate for the Pension Department.

2. By this application, the petitioner has prayed for a direction to the respondent authorities to release the family pension and other service benefits relating to the services of her husband.

3. The case of the petitioner is that the husband of the petitioner was appointed as an Assistant Teacher at Haripur Girls' ME School in the post held by one Abdul Kalam Azad, who was transferred. The said appointment order was dated 03.12.1999.

Thereafter, the husband of the petitioner joined to the said post in the said school vide joining report dated 06.12.1999 and since the said date, the petitioner's husband was working as the Assistant teacher on a regular basis to the sanctioned post. However, it is stated that although the petitioner's husband was appointed to a sanctioned post, his post was not retained by the respondent authorities. The husband of the petitioner along with others were not getting salaries and for payment of the same, they made a representation before the Under Secretary to the Government of Assam, Education Department and the Under Secretary to the Government of Assam, by a communication to the DEEO, Barpeta, requested for release of salaries to 58 numbers of ME School Teachers, as well as for payment of arrear salaries to the teachers vide letter dated 21st of December, 2000. The petitioner also states that the Headmaster of the School, where her husband was serving had also, by a letter to the DEEO, had stated that the petitioner's husband was serving in the said school as an Assistant Teacher from the date of his appointment as a selected candidate. However, the petitioner's husband did not get salary in spite of making the said representations and without being left with any other alternative, filed a case before the Hon'ble High Court and the said case was registered as WP(C) No. 6246/2003 and this Court had directed for release of the current salaries of the petitioners in that writ petition and on personal appearance of the DEEO, Barpeta, this Court further directed to adjust the husband of the petitioner along with others against regular vacancies lying in the district. Thereafter, on a further date, this Court directed the DEEO again to appear personally and apprise the Court about adjustment of the

husband of the petitioner along with others for getting salaries and also to move the higher authority to get the necessary adjustments and to complete the exercise, time frame was set, and in view of the said order, the DEEO, by an intimation to the Director of Elementary Education, requested for adjustment of the petitioners, which included the husband of the petitioner, against the vacancies shown by the undersigned, so that he can personally appear before the Hon'ble High Court and show the compliance of the order. Thereafter, the Director of Secondary Education, Assam, by a communication to the Commissioner and Secretary to the Government of Assam, Education Department, had further requested for necessary order(s) so that the concerned DEEO may place the same before this High Court and in pursuance to the said request, by order dated 9th of June, 2006, the petitioner's husband along with others were adjusted as Assistant Teachers on regular basis in Mahchara MV School, on the transferred post. However, it is stated by the learned counsel appearing for the petitioner that the petitioner's husband could not join the said school due to his ailment and that he made a request for his induction in the Office of the District Elementary Education Officer, by giving a joining report on 26.06.2006, which was accepted by the District Elementary Education Officer, Barpeta, on 29.06.2006, as reflected in the said letter itself.

4. The learned counsel for the petitioner submits that even after the said exercise, the petitioner's husband as well as other similarly situated teachers did not get their salaries, more so, because of the fact that the post in which the petitioner's husband and others

had joined were not retained by the Government. The learned counsel for the petitioner submits that after joining the office of the DEEO, the petitioner's husband expired on 08.11.2006 and the said writ petition, i.e., WP(C) No. 6246/2003 was pending during the said time and the petitioner being the wife had substituted herself in the said petition. This Court, thereafter, vide order dated 03.12.2008, disposed of the said writ petition with the direction that State respondents should release the salary and other service entitlements of the petitioner's husband and others for the period following their appointments on 09.06.2006, forthwith, with the further direction that their salaries will be paid regularly after that, but as far as the service rendered by the petitioner's husband and others prior to the period of 09.06.2006, an enquiry was directed to be conducted by the Commissioner and Secretary, Government of Assam, Education Department, by associating the Headmaster of the school involved and to take a decision with regard to the retention of the post and their claim for salary and other benefits and the said exercise was directed to be completed within 3 (three) months from the date of receipt of the order. It was also directed that once the said decision was taken, the same has to be communicated to the petitioners, which includes the husband of the petitioner. However, the learned counsel for the petitioner submits that he has no information as to whether an enquiry was conducted after the said order. In fact, he submitted that there was no enquiry held. The learned counsel for the petitioner submits that since Day-One of his appointment, the petitioner's husband was not paid any salary till the time of his death, i.e., on 08.11.2006, although he was working continuously as Assistant Teacher from

06.12.1999 till 26.06.2006 and thereafter, as an employee in office of the District Elementary Education Officer, till his death, i.e., on 08.11.2006.

5. However, the learned counsel appearing for the Elementary Education Department, Ms S Konwar submitted that initially, the petitioner's husband was working although in a regular post, but his post was not retained and it was only on 9th of June, 2006 that his services were adjusted in the Mahchara M V School, in pursuant to the order of this Hon'ble Court. She further submitted that the petitioner, after the said order had not worked as an Assistant teacher and as such, he could not claim his salaries for the said period.

6. Mr P Saikia, learned Government Advocate, representing the Pension Department, also endorses to the said submission made by Ms S Konwar, and submits that pensionary benefits cannot be awarded to the petitioner for the services rendered by the petitioner's husband.

7. I have heard the learned counsel appearing for the parties and I have also gone through the records.

8. It is noticed that the petitioner's husband was regularly appointed to the post of Assistant Teacher in the school of Haripur Girls' ME School and posted to the post held by the erstwhile employee who was transferred and he joined the said school on 06.12.1999 and since then, he was working in the said school and since he was not getting his salary, he and the other similarly situated teachers filed a writ petition, which

was allowed to the extent that petitioner's husband and other similarly situated teachers would get their salaries after their adjustment on 09.06.2006 and for the earlier period, an enquiry was directed to be conducted, as stated above. In the said order, it was directed that the Commissioner and Secretary to the Government of Assam, Education Department, would conduct the enquiry by holding a discussion with the Principal of respective schools and to maintain fairness and transparency and in conducting the enquiry, the petitioner's husband was also permitted to participate in the same and it was further directed that the decision should be taken within the time frame and the same must be communicated to the petitioners. It is seen that nothing was communicated to the petitioner and it is also not known as to whether any enquiry was at all conducted, in pursuance to the High Court's order. It is also seen that the petitioner's husband had worked for at least 7 (seven) years and he was not paid any salary for the said period which is against the mandate of law and against the law laid down by the Hon'ble Apex Court that if services are utilized by the Government authorities, the payment should be made. It is further noticed that the petitioner's husband had expired on 08.11.2006 during his service and he is entitled not only to his arrear salary, but also his family is entitled for pension and other pensionary benefits. It is provided under rule 140 of the Assam Services (Pension Rules), 1969, that a family pension should be provided as mentioned in Rule 141 in case of death of an officer while in service and also that, for the said entitlement, the Government servant should have completed a minimum period of one year of service and further, under Rule 142, it is provided that when a

Government servant who renders more than 7 years of continuous service, dies while in service, the family pension has to be granted to the family under the conditions mentioned in the said Rule. In the instant case, however, it is seen that the petitioner has completed his service for 28 days less than 7 (seven) years and under Rule 142, a Government servant is required to render service at least minimum of 7 (seven) years.

9. Be that as it may, the pension and other pensionary benefits cannot be refused to the family of the husband of the petitioner by the authorities concerned, he, having served as an Assistant Teacher or in other capacity continuously from 1999 to 2006.

10. As such, it is directed that the petitioner would submit a representation before the Secretary of School Education, Government of Assam, ventilating her grievances, i.e., payment of the arrear salaries as well as pension and pensionary benefits, which she is entitled under the Assam Services (Pension) Rules, 1969, for the services rendered by her husband and the authority concerned shall consider the said representation in the light of the observations made above, within a period of 2 (two) months from the date of receipt of a certified copy of this order. The petitioner is, as such, directed to submit her representation along with a certified copy of this order at the earliest.

11. Petition is disposed of.

JUDGE

Comparing Assistant