

GAHC010084052021



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

Case No. : WP(C)/3389/2021

CHUNGKHOSIEM LIENTHANG
S/O LATE LATE TONKHOJAM LIENTHANG
RESIDENT OF MAHUR, PO AND PS MAHUR, DIST DIMA HASAO ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT. OF
ASSAM, SOIL CONSERVATION DEPARTMENT, DISPUR, GUWAHATI 06

2:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT DISPUR
GUWAHATI 06

3:DIRECTOR OF SOIL CONSERVATION
ASSAM
BHUMI SANGRAKSHAN BHAWAN
1ST FLOOR
R.G. BARUA ROAD
GUWAHATI ASSAM 781005

4:ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION LIMITED
OPPOSITE SARUSAJAI NATIONAL COMPLEX SAWKUCHI
NH 37
LAKHARA
GUWAHATI 781034 ASSAM REPRESENTED BY ITS MANAGING DIRECTOR

5:THE MANAGING DIRECTOR
ASSAM PLANTATION CROPS DEVELOPMENT CORPORATION LIMITED

OPPOSITE SARUSAJAI NATIONAL COMPLEX SAWKUCHI
NH 37

LAKHARA
GUWAHATI 781034 ASSA

Advocate for the Petitioner : MR. A BHATTACHARYYA

Advocate for the Respondent : SC, SOIL CONSERVATION DEPTT.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 30.07.2021

Heard Mr. A. Bhattacharyya, learned counsel for the petitioner. Also heard Ms. R.S. Deori, learned standing counsel for the Soil Conservation Department, respondent nos.1, 3, 4 and 5 and Mr. P. Nayak, learned standing counsel for the Finance Department, respondent no.2.

Upon instruction, the learned standing counsel for the respondent nos.1, 3, 4 and 5 submits that there is no budget provision available under the Corporation at present and therefore, the retirement benefit of the petitioner would be paid subject to allocation made the Govt. of Assam.

Issue notice returnable on 06.09.2021.

As all the respondents are represented, requisite additional copies of the writ petition be furnished to the learned departmental counsel in course of the day today.

Having regard to the nature of instruction received by the learned standing counsel for the respondent nos.1, 3, 4 and 5, the Court is compelled to observe that the said respondents have not taken reasonable care to be aware of their liability to pay retiral dues of their superannuating staff by failing in their

duty to make arrangement for appropriate provision for budgetary allocation of the retirement dues of the petitioner. In the considered opinion of the Court, issuance of pension is not a grant by the Govt., but it is the right, which has accrued to a superannuating staff by dint of his past service, which cannot be withheld without any lawful ground.

Accordingly, the Court is also inclined to issue notice on the officials holding the post of respondent nos.1, 3, 4 and 5 to show cause as to why interest at the rate of 12% p.a. should not be awarded to the petitioner for delay in processing the pension papers of the petitioner and resultant non-payment of his retirement dues and why the State should not be granted liberty to realize the interest, jointly and severally from the officials, who after enquiry, are found to cause delay in processing pension papers of the petitioner and to acquire/obtain necessary budgetary allocation for payment of such retirement dues.

The learned standing counsel for the respondent nos.1, 3, 4 and 5 shall download a copy of this order for onward transmission to the respondents.

List on 06.09.2021.

JUDGE

Comparing Assistant