

GAHC010128142021



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

Case No. : Cont.Cas(C)/293/2021

SMT. KUNJAMAI BORDOLOI
W/O LATE GAHIN CHANDRA BORDOLOI, R/O VILL-KUMARBORI, P.O.-
KILLING VALLEY, P.S.-JAGIROAD, DIST-MORIGAON, ASSAM, PIN-782410

VERSUS

DR. (MRS.) BIJOYA CHOUDHURY AND 9 ORS
SECRETARY TO THE GOVERNMENT OF ASSAM, EDUCATION
(ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-06, DIST- KAMRUP(M),
ASSAM.

2:SRI SANTANU P. GOTMARE
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-06
DIST- KAMRUP(M)
ASSAM

3:MANISH THAKUR
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06
DIST-KAMRUP (M)
ASSAM

4:SUBHAS DAS
DIRECTOR OF PENSION
HOUSEFED COMPLEX
DISPUR
GUWAHATI-06

DIST-KAMRUP(M)
ASSAM

5:SMTI. SURANJANA SENAPATI
DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19
DIST-KAMRUP(M)
ASSAM

6:AFONG ENGTI
DISTRICT PRIMARY EDUCATION OFFICER
PRIMARY EDUCATION DEPARTMENT
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
P.O.-DIPHU
PIN-782460
DIST- KARBI ANGLONG
ASSAM

7:SRI K.S. GOPINATH NARAYAN
PRINCIPAL ACCOUNTANT GENERAL (A ND E)
MAIDAMGAON
BELTOLA
P.O.-BELTOLA
GUWAHATI-29
DIST-KAMRUP(M)
ASSAM.

8:KATHARSON ENGTI
SUB INSPECTOR OF SCHOOLS
AUGURI CIRCLE
P.O.-AUGURI
DIST-KARBI ANGLONG
ASSAM
PIN-782413

9:SRI MUKUL KUMAR SAIKIA
PRINCIPAL SECRETARY
KARBI ANGLONG AUTONOMOUS COUNCIL
P.O.-DIPHU
DIST-KARBI ANGLONG
ASSAM
PIN-782460

10:NARAYAN KONWAR
IAS

SECRETARY TO THE GOVERNMENT OF ASSAM
EDUCATION (ELEMENTARY DEPARTMENT)
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR. D BORAH,

Advocate for the Respondent : MR B DEURI (R-4), MS R GOGOI,MR. D NATH (R-2),MS. S KEMPRAI (r-6),MR J CHUTIYA (r-6)

BEFORE
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06-02-2026

- 1.** Heard Mr. D. Borah, learned counsel for the petitioner and Mr. S.M.T.Chistie, learned counsel appearing for the respondent/contemnor Nos. 1, 5 & 10.
- 2.** The present contempt petition is filed alleging willful and deliberate violation of the order dated 29.11.2019 passed in WP(C) No. 8754/2019.
- 3.** The grievance raised in the said writ petition was that the petitioner has not been granted family pension on the death of her husband, i.e., Gahin Ch. Bordoloi, who retired on 29.04.1998 and thereafter, expired on 05.02.2006.
- 4.** It was pleaded by the petitioner in the aforementioned writ petition that her husband was serving on regular basis under the Primary Education Department, Karbi Anglong Autonomous Council (KAAC), Diphu and though her husband was entitled to pension, he was not given any pension and prior to getting the pensionary benefit, the petitioner's husband died. Accordingly, the writ petition was filed.
- 5.** The aforementioned writ petition was disposed of with the following directions:

“ In that view of the matter, the present petition is disposed of directing the respondent authorities to examine the claim of the petitioner and upon examination if found eligible, the petitioner may be afforded family pension, which exercise shall be undertaken within a period of 3 (three) months from the date of receipt of a certified copy of this order.

If the petitioner has been deprived of the entitled family pension, the petitioner would be entitled to interest in terms of Rule 197-A of the Assam Services (Pension) Rules, 1969. The authorities will also examine the same and if entitled, the interest also shall be released. In order to expedite the process, the petitioner will furnish a copy of the writ petition along with annexures as well as a certified copy of this order to the respondents.”

6. Pursuant to the aforesaid direction, by order dated 18.08.2023, the Secretary to the Government of Assam, Department of School Education, passed a speaking order.

7. By the aforementioned speaking order dated 18.08.2023, the Secretary to the Government of Assam, Department of School Education, declined the grant of pension to the petitioner for the reason that late husband of the petitioner, who was serving at China Gaon L.P. School under Amri Block was not included in the list of L.P. Schools Teachers for provincialisation due to non-availability of his Service Book at the time of processing and accordingly, his name was left out from the list of provincialisation of service by the DPEO, KAAC, Diphu. Accordingly, it was concluded in the said order that there is no provision in the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 for provincialisation of service posthumously. Accordingly, his provincialisation was also rejected.

8. However, in the meantime, the Director of Pension, Assam granted family pension to the petitioner w.e.f. (i) 01.08.2003 upto 05.02.2006 @ Rs. 2443/-; (ii) 06.02.2006 upto 30.09.2007 @ Rs. 1560/- ; (iii) 01.10.2007 upto 31.03.2016 @ Rs. 2770/- and (iv) 01.04.2016 onwards @ 6870/-. It is submitted that the petitioner is receiving such amount from the order dated 30.06.2023 issued by the Director of

Pension, Assam.

9. It is not discernible as to why the family pension was paid to the petitioner w.e.f. 01.08.2003, when admittedly, the government servant died on 05.02.2006 and his date of superannuation is 29.04.1998.

10. Since the Director of Pension, Assam has held that the petitioner was entitled for family pension and was granted the same, this Court will require to look into as to why the pension has not been calculated and paid to the Govt. servant w.e.f. 29.04.1998 (date of his superannuation) till 05.02.2006 (date of his death), inasmuch as, the present petitioner was to be entitled to family pension w.e.f. 06.02.2006.

11. Moreover, this Court under its order dated 29.11.2019 passed in WP(C) No. 8754/2019 clarified that in the event, the husband of the petitioner is held to be entitled for pension, the interest shall be calculated in terms of Rule 197-A of the Assam Services (Pension) Rules, 1969, however, nothing is discernible in this regard from the Pension Pay Order dated 30.06.2023.

12. Mr. Deori, learned counsel representing the Director of Pension, Assam seeks some more time to complete his instruction and file an affidavit explaining the aforesaid factual clarification that is required for proper adjudication of the case.

13. List this matter on **09.02.2026**.

14. Copy of this order be furnished to Mr. B. Deori, learned counsel representing the Director of Pension, Assam for his necessary use.

JUDGE

Comparing Assistant