

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
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

09.02.2026

- 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, Mr. B. Deuri, learned counsel representing the Director of Pension, Assam, Mr. J. Chutiya, learned Standing Counsel for the KAAC, Diphu and Mr. R. K. Talukdar, learned counsel for the respondent No. 7.
- 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) 06.02.006 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. In deference to this Court's earlier order dated 06.02.2026, Mr. B. Deuri, learned counsel representing the Director of Pension, Assam submits that the family pension was paid to the family of the deceased w.e.f. 01.08.2003 in spite of the fact that the government servant died on 05.02.2006 and his date of superannuation is 29.04.1998, for the reason that while forwarding the proposal by the District Primary Education Office, KAAC, Diphu, it was mentioned that the government servant is entitled to pension w.e.f. 01.08.2003.

10. At this stage, Mr. J. Chutiya, learned Standing Counsel for the KAAC, submits that though in the empanelled list of the persons, whose services were to be regularized, did figure the name of the husband of the petitioner, however, for want of his service book, his service was not regularized and his service ought to have been regularized as per such decision of the KAAC.

11. Mr. Chutiya, learned counsel further submits that such position was clarified to the Deputy Secretary to the Government of Assam, Education (Elementary) Department by the District Primary Education Officer, KAAC, Diphu, way back on 03.12.2025, inasmuch as in the aforesaid communication, it is clearly stated that the petitioner is entitled to pensionary benefit w.e.f. 30.04.1998, however, it was not done, as the husband of the petitioner was left out due to non-availability of service book at the time of processing pension benefit. Accordingly, Mr. Chutia, learned counsel submits that the authorities will now require to clarifying their position by way of an affidavit.

12. Prayer stands allowed.

13. As regards the direction to pay interest in terms of the Rule 197-A of the Assam Services (Pension) Rules, 1969, shall be considered after such affidavit is filed.

14. In the meantime, Mr. Deori, learned counsel representing the Director of Pension may also file an affidavit.

15. List this matter again on 16.02.2026.

JUDGE

Comparing Assistant