

GAHC010266492024



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

Case No. : WP(C)/6762/2024

KHANINDRA KUMAR NATH
S/O LATE JOY CHANDR ANATH
R/O HOLI GOGOI PATH, GOROLI NEAR SARASUJAI STADIUM, P.O.
SAUKUCHI, P.S. BASISTHA,
GUWAHATI, DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ENVIRONMENT AND FORESTS DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT. OF ASSAM

ENVIRONMENT AND FORESTS DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
AND HEAD OF FORESTS FORCE
ASSAM
PANJABARI
GUWAHATI-22.

4:THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS

SOCIAL FORESTRY
ASSAM

GUWAHATI NOW RE-DESIGNATED AS PRINCIPAL CHIEF CONSERVATOR
OF FORESTS

SOCIAL FORESTRY
ASSAM
GUWAHATI-22.

5:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)

ASSAM
MAIDAMGAON
GUWAHATI-2

Advocate for the Petitioner : MR. J I BORBHUIYA, MR. L MOHAN,MRS. K H
CHOUDHURY,MR A HOSSAIN,W.H. DEVI

Advocate for the Respondent : SC, FOREST, MR D BHATTACHARYA,MR. J K GOSWAMI

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

03.04.2025

Heard Mr. J. I. Barbhuiya, learned counsel appearing for the writ petitioner. Also heard Mr. J. K. Goswami, learned Addl. Sr. Govt. Advocate Assam appearing for the respondent Nos.1 to 4. Mr. D. Bhattacharjee, learned Standing Counsel, office of the Accountant General (A & E), Assam is present for the respondent No.5.

The writ petitioner herein retired from service on attaining the age of superannuation with effect from 01.03.2024 in the post of Deputy Conservator of Forests. The petitioner is entitled to receive pension under the Rules. However, his pension and other retiral dues have been withheld apparently on the ground of pendency of a departmental and criminal proceeding. The case of the petitioner is that save and except releasing the GPF amount of Rs.3,67,713/- payable to him, the authorities have not yet paid any other pensionary dues, including the arrear salary payable to him with effect from 27.08.2009 to

14.04.2023. Hence, this writ petition.

The petitioner's counsel has urged that his client is a cancer patient who is also facing the prospect of undergoing an open heart surgery. Therefore, the petitioner is in dire need of money, without which, he cannot avail the advanced medical treatment. On such ground Mr. Barbhuiya has submitted that at least the arrear salary payable to the petitioner be released immediately so as to enable him to avail the medical treatment.

On a pointed query made by this Court, Mr. Goswami, learned Addl. Sr. Govt. Advocate, Assam appearing for the respondents could not give any convincing answer as to why, the pension of the petitioner has been withheld. Mr. Goswami has, however, admitted that there is no order by any statutory authority for stopping the pension of the petitioner.

The learned Government Advocate was granted several opportunities to obtain instruction and file affidavit. Notwithstanding the same, no affidavit has been filed. There is also no clarity as to why, the department has not released the pension of the petitioner or at least, the arrear salary due and payable to him under the law. Under such circumstances, this Court is left with no other option but to direct the personal appearance of the Secretary to the Government of Assam, Environment and Forest Department as well as the Principal Chief Conservator of Forest, Assam to remain personally present on the next date fixed for answering the queries of the Court. It is, however, made clear that if the department releases the arrear salary payable to the petitioner under the law, then in that event, the personal appearance of the aforesaid two officials would not be required on the next date fixed.

It is made clear that release of arrear salary of the writ petitioner if made,

will be without prejudice of the department to proceed against him in accordance with law for any misconduct.

List this case again on 13.05.2025.

A copy of this order be handed over to Mr. J. K. Goswami, learned Addl. Sr. Govt. Advocate, Assam.

Registry to also communicate the order to the concerned officials so as to enable them to remain present before the Court on the next date fixed.

JUDGE

Comparing Assistant