

GAHC010018052024



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

Case No. : WP(C)/506/2024

GUNESWARY BASUMATARY @ GUNESWARI WARY
W/O- LATE BIJAY WARY, R/O- VILL.- DOLOGAON, P.O. GARUBHASA, P.S.
SIDLI, DIST. CHIRANG, BTAD, ASSAM, PIN- 783373.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, ASSAM

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GHY-6.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GHY-6.

4:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

5:THE DIRECTOR OF TREASURIES AND ACCOUNTS
ASSAM
DISPUR
GHY-6.

6:THE BODOLAND TERRITORIAL COUNCIL

REPRESENTED BY THE SECRETARY
EDUCATION DEPARTMENT
BODOFANAGAR
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

7:THE DIRECTOR OF EDUCATION
BTC
BODOFANAGAR
KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN- 783370.

8:THE DISTRICT ELEMENTARY EDUCATION OFFICER
CHIRANG
KAJOLGAON
DIST. CHIRANG
BATD
ASSAM
PIN- 783385.

9:THE DEPUTY INSPECTOR OF SCHOOLS
CHIRANG
KAJOLGAON
DIST. CHIRANG
BTAD
ASSAM
PIN- 783385.

10:THE TREASURY OFFICER
BIJNI TREASURY
DIST. CHIRANG
BTAD
ASSAM
PIN- 783390

Advocate for the Petitioner : MR. K R PATGIRI, MS CHITRALEKHA DAS,MR G SARMA

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

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

O R D E R

30/09/2024

Heard Mr. K R Patgiri, learned counsel for the petitioner and Mr. G Pegu, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 & 4. Also heard Ms. D Das Barman, learned Government Advocate, Assam for the respondent Nos. 2; Mr. R Barpujari, learned Standing counsel, Finance Department for the respondent Nos. 3, 5 & 10 and Mr. R K Mushahary, learned Standing counsel, BTC for the respondent Nos. 6, 7, 8 & 9.

2. The provisions of the New Defined Contribution Pension System (NPS) for those Government employees of the State came into force, who have joined their services on regular basis on or after 01.02.2005 in terms of the Office Memorandum dated 21.01.2005. The Pension and Public Grievances Department vide No. PPG(P) 165/2014/17 dated 14.06.2016 extended the additional benefits like, Invalidate Pension, Family Pension, DCRG, Disability Family Pension and Extra Ordinary Family Pension, as the case may be to Government employees coming within the purview of NPS, i.e., appointed on or after 01.02.2005 on getting discharged on invalidation/disability or to the families of such employees covered by NPS as have died in harness since 01.02.2005 with a view to mitigating hardship meted out to them or to their families in the lines of Government of India on PROVISIONAL basis only until further orders until the rules regulating these benefits under NPS are framed and enforced.

3. By Office Memorandum No. PPG(P) 165/2014/Pt/7 dated 18.06.2018, the Pension and Public Grievances Department of the State specified the procedure to be adopted for submission of claims relating to additional relief on Death/Disability of Government servants covered under New Defined Contribution Pension System laying down the procedure for extending the benefit of invalid pension/disability pension and family pension/extr-ordinary family pension and Death cum Retirement Gratuity on provisional basis to the State Government employees appointed on or after 01.02.2005 under the NPS and died in harness or discharged on invalidation/disability.

4. Further, the Pension and Pubic Grievances Department vide Office Memorandum No. PPG(P) 165/2014/36 dated 01.02.2021 extended the benefits of Retirement Gratuity and Death Gratuity to the State Government employees covered by New Defined Contribution Pension System on the same

terms and conditions, as are applicable to employees covered by Assam Services (Pension) Rule, 1969 for payment of gratuity on provisional basis in respect of employees covered under the NPS on retirement of employees from Government service on his/her invalidation or death in service.

5. In the case in hand, the service of the petitioner's husband, Bijay Wary, Assistant Teacher of Shymthaibari M.E. School, Shymthaibari, Village-Garubhasa under Deputy Inspector of Schools, Kajalgaon, District-Chirang, was provincialised w.e.f. 01.01.2013 by order No. EE(Plan)-Provn./UP/Chirang/340/2013/28 dated 16.05.2013 issued by the Director of Elementary Education, Assam pursuant to the order of the State Government in the Education Department dated 26.03.2013.

6. After provincialisation of service of the husband of the petitioner, Bijay Wary w.e.f. 01.01.2013 in said Shymthaibari M.E. School, Shymthaibari, he expired on 19.01.2014 leaving behind the petitioner, one son and one minor daughter. Apparently, the service of the petitioner falls under the New Defined Contribution Pension System as his service was provincialised after 01.02.2005. Though, the petitioner, wife of Late Bijay Wary, is entitled for the benefits granted by the Pension and Public Grievances Department of the State vide O.M. dated 14.06.2016, O.M. dated 18.06.2018 and O.M. dated 01.02.2021, but till date, she has not been provided with any such benefit even on her approach. Hence, this writ petition.

7. Mr. Patgiri, learned counsel for the petitioner submitted that on 21.08.2023, the petitioner submitted a detail representation before the Director of Education, BTAD, Kokrajhar that was received by the concerned office on 24.08.2023 vide No. 446, but till date, the respondent authorities in the BTC did not provide her any such benefit though she is entitled for as per the Office Memorandums dated 14.06.2016, 18.06.2018 and 01.02.2021, noted above.

8. The husband of the petitioner, Bijay Wary died-in-harness on 19.01.2014, just on completion of one year of his service as his service was provincialised w.e.f. 01.01.2013 by order dated 16.05.2013 issued by the Director of Elementary Education, Assam.

9. Considering the above, the Director of Education, BTC respondent No. 7 is directed to dispose of the said representation of the petitioner dated 21.08.2023 that was received by its office on 24.08.2023 vide No. 446 with a reasoned order within a period of 60 (sixty) days from the date of receipt of the certified copy of this order, to be furnished by the petitioner before the said authority along with a copy of her said representation dated 21.08.2023, obtaining necessary acknowledgment from the said authority in that regard.

10. It is directed that if the Director of Education, BTC finds the petitioner eligible for such benefit as per her entitlement in terms of the Office Memorandums dated 14.06.2016, 18.06.2018 and 01.02.2021, all issued by the Pension and Public Grievances Department of the State, noted above, then the said authority of BTC shall expedite the process and shall finalize it within a period of next 60 (sixty) days and shall pay her such benefit following the procedure as provided in the Office Memorandum No. PPG(P) 165/2014/Pt/7 dated 18.06.2018 of the Pension and Public Grievances Department of the State.

11. Within the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant