
(2022) 04 GAU CK 0038

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2627 Of 2022

Damila Bordoloi

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

Date of Decision : 29-04-2022

Acts Referred:

Assam Services (Pension) Rules, 1969 — Rule 140

Citation : (2022) 04 GAU CK 0038

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : H Das

Final Decision : Disposed Of

Judgement

1. Heard Mr. H. Das, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned counsel for the respondents No.1, 2 and 4 being the authorities in the Irrigation department of the Government of Assam of Mr. B. Chakraborty, learned counsel for the respondent No.3 Accountant General.

2. The husband of the petitioner who was appointed as a muster roll worker in the Office of the Executive Engineer, Kaliabor Integrated Kalong Electrical Division was regularized in service on 22.07.2005 as per the order dated 03.10.2005. The husband of the petitioner died-in-harness on 25.11.2007. Upon an application for family pension being made, the same was refused and as per the statement made in paragraph-6 of the writ petition the refusal was made because of deduction of 6 years from the total length of service of the husband of the petitioner which otherwise was 25 years 22 days. According to the respondents, after deduction of the 6 years, the husband of the petitioner was not entitled to pensionary benefit. Acceptability of the deduction of 6 years from the qualifying service of muster roll worker was decided by this Court in the judgment dated 04.12.2018 in Sanjita Roy and others –vs- State of Assam and others reported in 2019 (2) GLT 805. As the procedure of deduction of 6 years of qualifying service has been rejected by this Court, we are of the view that the

petitioner is entitled to a consideration for payment of family pension without deducting 6 years from the qualifying service of the deceased husband.

3. But however we also take note of the provision of Rule 140 of the Assam Services (Pension) Rule 1969, which inter alia provides that in case of death while in service, the government servant should have completed one year of service. As this is a claim for payment of family pension, where the deceased husband of the petitioner died while in service, the respondent in the Irrigation Department may work on the entitlement of the petitioner for family pension by taking note of the provision of Rule 140 of the Assam Services (Pension) Rule, 1969 and if otherwise it is found and eligible, necessary orders thereof be passed. If the petitioner is found eligible the necessary pension papers be submitted within a period of 2 months from the date of receipt of the certified copy of the order.

4. Writ petition stands disposed of as indicated above.