(1999) 04 GAU CK 0021

In the Gauhati High Court

Case No : Civil Rule No. 5643 of 1995

Jorina Begum and Another — APPELLANT

Vs

State of Assam and Others — RESPONDENT

Date of Decision : 26-04-1999

Acts Referred:
Assam Services (Pension) Rules, 1969 — Rule 184, 185, 186, 187, 188

Citation : (2000) 1 GLT 592

Hon'ble Judges : J.N. Sharma, J

Bench : Single Bench

Advocate : A. Sarma and A.K. Sarma, for the Appellant; D. Goswami, for the Respondent

Final Decision : Allowed

Judgement

J.N. Sarma, J.—This matter again depicts the callous and cavalier attitude of the authority with regard to the benefit due to a person on retirement. It has become a practice for the authority, as soon as a person retires, for the authority he has no consequence and he is to be a dead horse. But the authority forgets that he has also the need of livelihood and he may have a family to maintain and that the pension is given for the hard days and in old age. Keeping in view that aspect of the matter, the authority is duty bound and obliged to give the benefit of pension soon after the retirement of the person.

2. Rule 95 of the Assam Services (Pension) Rules, 1969 inter alia provides as follows:

95. Procedure, With a view to ensure completion of pension records and documents in time to avoid the possibility of any delay in the commencement of pension each head of department and office or the Administrative Department where there is no head of department or office, shall have a superannuation statement prepared on the 1st of January in each year showing a list of all officers, gazetted or non-gazetted, who will attain the age of superannuation in

course of the next calendar year i.e. between 1st January to 31st December of next year. As soon as the list is prepared an intimation should be sent to every such officer due to retire during the next year drawing his attention to his anticipated date of retirement and the provisions of rules 184 to 188 to enable him to make a formal application for pension one year in advance of the date of his anticipated retirement. The list should also include the names of officers who are on temporary deputation to other Department/Government or on foreign service and intimation should similarly be issued to such officer as well as the head of the Department or foreign employer under whom he is serving temporarily. If no intimation, is, however, issued to the officer this shall not in any way change his date of retirement and shall not confer on the Government servant any right to remain in service beyond the date on which he is required to retire. One copy each of the annual superannuation statement prepared should be sent to the Accountant General, Assam, Administrative Department and Finance Department respectively.

3. There is also an Office Memorandum dated 29th April, 1976 with regard to simplification of procedures with a view to eliminating delays in the payment of superannuation pension and death-cum- retirement gratuity. That Office Memorandum also makes elaborate provisions for granting pension in time. Nothing was done in this case in pursuance of Office Memorandum or in pursuance of Rule 95. Further, though the Petitioner retired on 30.6.93, on 2.5.95 the Executive Engineer sent the pension papers to the Accountant General, Assam, Bhangagarh, G.S. Road, Guwahati-781005 and that letter is quoted below:

Govt. of Assam Office of the Executive Engineer, P.W.D. (R) Barpeta Division. Barpeta

No. EP/3406

Dated 2.5.95

To,

The Accountant General Assam, Bhangagarh, G.S. Road, Guwahati-781005.

Sub: Pension paper in favour of Sri Choukat Ali, permanent MR. Labourer of P.W.D.(R) Barpeta Division.

Sir,

I have the honour to forward herewith the pension paper in favour of Sri Choukat Ali, permanent MR. Labourer of Barpeta, P.W.D. (R) Division, who retired on 30.6.93 for favour of your kind disposal.

List of Encloser:

Yours faithfully, Sd/- M. Chaudhury, Executive Engineer, P.W.D., (Roads) Barpeta Division.

Inspite of receipt of this letter nothing has been done. Hence this writ application.

4. No affidavit-in-opposition has been filed on behalf of the Respondents. Records also have not been produced by the Govt. Advocate. There is absolutely no explanation with regard to the delay in payment of pension and in the meantime this person died on 6.12.96. The heirs have been brought on record.

5. I have heard Mr. A.K. Sharma, learned Advocate for the Petitioner and Sri D. Goswami, learned Govt. Advocate for the Respondents No. 1, 2 and 3. None appears for the Respondent No. 4.

6. Accordingly, this writ application is disposed of with a direction to the authority i.e. the Respondent No. 4 to pay the pension and other retiral benefit to the Petitioner within a period of one month from the date of receipt of this order. The Respondents No. 1, 2 and 3 shall pay a sum of Rs. 5,000/- for the delay in sending the pension papers and the Respondent No. 4 shall pay a sum of Rs. 10,000/- for causing delay for not paying the pension since 1995. This amount of Rs. 10,000/- is really a small amount in view of the decision of the Apex Court where the Apex Court gave compensation to the tune of Rs. 1 lakh for causing delay in payment of pension for a period of 3 years.

7. The writ application is accordingly allowed. The Petitioner may obtain the certified copy of this order and may produce the same before the authority to do the needful in terms of the order.