
(2020) 12 GAU CK 0001
In the Gauhati High Court
Case No : Writ Petition (C) No. 5184 Of 2019

Momi Bala Roy

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 01-12-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 12 GAU CK 0001

Hon'ble Judges : Hitesh Kumar Sarma, J

Bench : Single Bench

Advocate : H Das

Final Decision : Disposed Off

Judgement

Heard Mr. H. K. Das, learned counsel for the petitioner. Also heard Ms. S. Sarma, learned counsel for Respondent Nos. 1, 3 and 4, and Mr. G.

Baishya, learned counsel for Respondent No.2.

This application under Article 226 of the Constitution of India has been filed seeking appropriate Writ/direction to the respondent authorities to

regularize the services of the husband of the petitioner as Section Assistant in the office of the Executive Engineer, Public Works Department (Rural

Roads Division), Goalpara with effect from 1.2.1994 till his death on 29.12.2018 and to release family pension to the petitioner accordingly.

The case of the petitioner is that the petitioner's husband was appointed as a Section Assistant in the office of the Assistant Executive Engineer,

Public Works Department, (Rural) Dudhnoi Sub-Division, on work-charge basis vide appointment letter dated 29.1.1994 and he joined in the said post

on 1.2.1994. The husband of the petitioner died on 29.12.2018 while in service. Death certificate issued by the competent authority to that effect has

also been enclosed with the writ petition.

It is the submission of the learned counsel for the petitioner and, as also appears from the contents of the petition itself, that the husband of the

petitioner was never regularized in service before his death. The admitted position is that he worked as work-charged employee in the Department.

Ms. Sarma, learned counsel appearing for Respondent Nos.1, 3 and 4, i.e. Public Works Department, has submitted that since the service of the

petitioner's husband has not been regularized before his death and, even till filing of this petition, she is not entitled to any pensionary benefit. It has

further been submitted by the learned counsel for the said respondents that the proposal to regularize the services of the husband of the petitioner has

been forwarded by the concerned Executive Engineer to the Government of Assam, Public Works Department.

To a pointed query, learned counsel for the Public Works Department has not been able to say as to whether the proposal of the Executive Engineer

for regularization of the services of the petitioner has been disposed of or not. On the other hand, learned counsel representing Respondent No.2, i.e.

Accountant General, has submitted that the petitioner is not entitled to any pensionary benefit since her husband was not a regular employee of the

Public Works Department.

Mr. Das, learned counsel for the petitioner has also submitted that an application for regularization of the services of the husband of the petitioner was

filed on 10.7.2019 (Annexure-E to the writ petition) in the Respondent Public Works Department.

From the submissions made by the respective counsel for the parties, it transpires that a proposal for regularization of the services of the husband of

the petitioner was submitted by the concerned Executive Engineer to Government of Assam in the Public Works Department and the petitioner had

also submitted an application, dated 10.7.2019, for regularization of the services of her husband.

During the course of hearing, it has come out to be an admitted position that the aforesaid proposal of the Executive Engineer as well as the petition

dated 10.7.2019 filed by the petitioner for regularization of the services of her husband have not been disposed of either way. Learned counsel for the

petitioner has also submitted that since the aforesaid proposal of the Executive

Engineer as well as the petition filed by the petitioner for regularization of the services of her husband have not been disposed of, this Court may direct the respondent authorities in the Public Works Department, Government of Assam, to disposed of the same within a specified period of time. Considering the above, this Court is of the view that Government of Assam in the Public Works Department shall dispose of the proposal of the concerned Executive Engineer for regularization of services of the husband of the petitioner as well as the petition filed by the petitioner, as indicated above, on merit, by a speaking order, within a period of period of two months from the date of receipt of a certified copy of this order/production of a copy of this order by the petitioner. With the above observation, the writ petition stands disposed of.