

(2025) 09 GAU CK 0454
In the Gauhati High Court
Case No : W.P.(C) NO.6908 Of 2024

Rina Ganju

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 16-09-2025

Acts Referred:

Constitution Of India, 1950 — Article 226
Assam Services (Pension) Rules, 1969 — Rule 143(A)

Citation : (2025) 09 GAU CK 0454

Hon'ble Judges : Kaushik Goswami, J

Bench : Single Bench

Advocate : G. Borah, D.S. Neog, C.K.S. Baruah

Final Decision : Disposed Of

Judgement

Kaushik Goswami, J

1] Heard Ms. G. Borah, learned counsel, appearing for the writ petitioners. Also heard Ms. D.S. Neog, learned Standing Counsel, Irrigation Department, appearing for the respondent Nos. 1, 3, 4 and 5 and Mr. C.K.S. Baruah, learned Government Advocate, appearing for the respondent No. 6.

2] By way of this instant writ petition under Article 226 of the Constitution of India, the writ petitioners are seeking release of arrear salary, leave encashment, GPF, death cum retirement gratuity, and family pension in favour of the writ petitioners.

3] The brief fact of the case is that one Pradip Ganju, who is the husband of the writ petitioner No. 1 and father of the writ petitioner No. 2, was appointed as a helper under the head of the respondent Nos. 3 and 4, and his service was regularized w.e.f. 22.07.2005 in pursuance of the Govt. Letter No. ING (E) 104/2003/198, and Finance Department No. FEC (II) 1/2005/66.

4] It is the specific case of the writ petitioners that the said husband/father of

the writ petitioners has been missing since 29.04.2013, and accordingly, upon informing the Jakahlabandha Police Station about the missing of their husband/father, a General Diary Entry bearing GDE No. 815 on 30.04.2013 was registered. Thereafter, a W.T. message to the Officer-in-Charge of the police station concerned has also been sent. It is the further specific case of the writ petitioners that despite the police enquiring into the matter, the said husband/father of the writ petitioners could not be traced till date. Situated thus, the writ petitioner No. 1 in the month of June, 2013, filed an application before the respondent No. 3 for granting pensionary as well as collateral benefits, but the writ petitioner was advised to obtain a death certificate of the missing employee.

5] It is the further specific case of the writ petitioners that upon completion of 7 years since the said husband/father of the writ petitioners went missing, the writ petitioners approached different authorities to obtain a death certificate of the missing person, and finally a declaratory suit was filed before the learned Court of Munsiff, Kaliabor, Nagaon, Assam, wherein the learned Court of Munsiff, Kaliabor, dismissed the suit. It is also the case of the writ petitioners that though the writ petitioner No. 1 on 13.11.2023 had filed a representation before the respondent No. 2 for grant of pension under Rule 143 A of the Assam Services (Pension) Rules, 1969 (hereinafter referred to as the "Pension Rule, 1969"), nothing has been done till date. Hence, the present writ petition has been filed.

6] Ms. G. Borah, learned counsel appearing for the writ petitioners, submits that the writ petitioners have submitted a representation on 13.11.2023 for grant of family pension and other benefits in terms of Rule 143 A of the Pension Rule, 1969. She further submits that since the police report submitted by the jurisdictional police station indicates that the husband/father has not been traced after all efforts have been made, the representation filed by the writ petitioners for grant of family pension of the disappeared husband/father merit consideration.

7] Mr. C.K.S. Baruah, learned Government Advocate, and Ms. D.S. Neog, learned Standing Counsel, Irrigation Department, does not dispute the position that under Rule 143 A of the Pension Rules, 1969, there is a procedure for grant of family pension to the family members of a disappeared employee.

8] Having heard the learned counsels for both the parties and having taken note of Rule 143 A of the Pension Rule, 1969, it appears that in the event a government employee who suddenly disappears leaving his family and whose whereabouts are not known, the family members of such disappeared employee is entitled to receive the benefits of family pension, death cum retirement benefits, gratuity, etc as provided under the provision of Rule 143 A of the Pension Rule, 1969.

9] Apt at this juncture to refer to Rule 143 A of the Pension Rule, 1969, which read as under:

"PROCEDURE FOR FAMILY PENSION IN CASE OF DISAPPEARANCE OF GOVT.

SERVANT

143 A-

The family pension and death-cum-retirement gratuity to the families of Government servant who suddenly disappears leaving their families and whose whereabouts are not known shall be granted after observing the following formalities-

(1) When an employee disappears leaving his family, the family may be paid in the first instance the amount of salary due, leave encashment due and the amount of G.P.F having regard to the nomination made by the employee.

(2) After the elapse of a period one year as provided under sub-rule (5) below, other benefits like death-cum-retirement gratuity/family pension may also be granted to the family subject to the fulfilment of conditions prescribed in the following sub-rules,

(3) The above benefits may be sanctioned by the Head Offices after observing the following formalities-

(i) The family of disappeared employee must lodge a report with the concerned police station and obtain a report, that the employee has not been traced after all efforts had been made.

(ii) An Indemnity Bond as per Annexure-I shall be taken from the nominees/dependents of the employee that all payments shall be adjusted against the payment due to the employee in case he appears on the scene and makes any claim.

(4) The head of Offices shall assess all Government dues outstanding against the Government servant and effect their recovery in accordance with the provisions laid down in clause 7 P.14/86/23, dated (seven) of the Office Memorandum No. 26.5.87 and other instructions in force for effecting recovery of the Government dues.

(5) The date of disappearance of the employee shall be reckoned from the date of issue of the report by the concerned police station stating that the employee has not been traced out after all efforts had been made and the period of 1 (one) year after which the benefits of family pension and Death-cum-Retirement Gratuity are to be sanctioned shall also be reckoned from this date.

(6) The family should apply to the Head of Office of the Government servant for grant of family pension and Death-cum-Retirement gratuity after 1(one) year from the date of disappearance of the Government servant in accordance with the prescribed procedure for sanction of family pension and death-cum-retirement gratuity as contained in OM No.FMP.14/86/23. dt.26.4.87.

(7) Other rules and procedures of the Assam Services (Pension) Rules, 1969 shall apply in setting the cases under this rule wherever necessary."

10] Reading the aforesaid rule, it is apparent that a mechanism is prescribed for applying for family pension and other death cum retirement benefits by the family members of the disappeared employees. It further appears that out of the preconditions to be fulfilled, one of the condition is that the family of a disappeared employee must lodge a report with the concerned police station and obtain a report that the employee has not been traced after all efforts have been made.

11] It appears that in the case at hand, the writ petitioner No. 1 has reported to the jurisdictional police station as regards her husband being missing since 29.04.2013, and thereafter an enquiry was conducted. It further appears from the police report enclosed as Annexure-4 to the writ petition that the husband of the writ petitioner No. 1 was not found till the date of submission of the said report.

12] Be that as it may, since there is a specific provision under Rule 143 A of the Pension Rule, 1969, to provide family pension to the family members of the disappeared employee, I am thus of the considered view that this writ petition can be disposed of in the interest of justice by giving liberty to the writ petitioners to file representation afresh before the respondent No. 3 with all the relevant documents in terms of Rule 143 A of the Pension Rules, 1969, and as and when the same is filed, the respondents, more particularly the respondent No. 3, shall consider the same within 4 (four) weeks from receipt of such representation in accordance with the provision contained in Rule 143 A of the Pension Rule, 1969, and to pass necessary order thereof.

13] Ordered accordingly.

14] The writ petition is accordingly disposed of.