
(2000) 05 GAU CK 0033
In the Gauhati High Court
Case No : Civil Rule No. 5408 of 1997

Sati Lakhi Roy (Smti)

APPELLANT

Vs

G.O.C. Eastern Command and Others

RESPONDENT

Date of Decision : 10-05-2000

Acts Referred:

Citation : (2001) 1 GLT 312

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : S.C. Biswas, K. Bhattacharyya, P. Biswas and M.K. Majumdar, for the Appellant; D. Sur, for the Respondent

Final Decision : Allowed

Judgement

H.K. Sema, J.—Heard Mr. K. Bhattacharyya, the learned Counsel for the Petitioner as well as Mr. D. Sur, the learned Addl. CGSC for the Respondents.

2. Petitioner's daughter Late Bina Roy was appointed as Ward Sahayika, C/o 99 APO on 18.9.81 and attached to 155 Base Hospital, who died in harness on 6.9.96 leaving behind her widow mother and brothers. It is stated that late Bina Roy was unmarried at the time of her death. Immediately thereafter, the Petitioner's widow mother applied for Pension and Gratuity amount, but the same has also not been granted till date.

3. The facts of the case narrated herein below will show the pitiable condition of the Petitioner. It was stated that after the death of the daughter the Petitioner applied for the Gratuity and Family Pension before the authority concerned and by an order dated 15.11.96 the detailed particulars of the Petitioner as well as the deceased were forwarded by the Commandant to the concerned authority. Thereafter, as she was not receiving the same, she went a reminder and, in return, the authority sent a telegram dated 22.2.97 to C.D.A. (Pension) Allahabad and Area Accounts Officer, Shillong for early release of Pension/GPF. On 10.3.97 the Petitioner received a letter dated 4.3.97 from the Coy.

Commander asking certain documents which were immediately submitted. On 20.5.97, the Petitioner received another letter dated 15.5.97 from Coy. Commander wherein it was stated that CTC copy of the CDA (Pension) has been forwarded for information and it was stated in the copy that Pension Certificate not issued in such a case. On 30.6.97, Petitioner received a letter dated 23.6.97 from the Coy Commander stating that a cheque of Rs. 20,250/- on the account of GPF has been passed and the same has been deposited in her A/c in the Indian Bank, but in fact, no amount has been deposited in the Petitioner's A/c. Since the Petitioner has not received any benefit like GPF, Family Pension etc., a legal notice dated 9.6.97 has been sent, but there is no response from the Respondents.

4. The aforesaid circumstances would clearly show that the Respondents have been dealing with the matter in a casual and cavalier manner without making any sincere effort.

5. Counter, on behalf of the Respondents has been filed. It is stated in paragraph-11 that Respondents admit that in a similar circumstance, normally the pension papers are issued pursuant to Govt. of India's order dated 27.10.97, however, dependency criteria is still awaited from the Govt. of India. It is also stated that in the absence of the said dependency criteria no Family Pension can be notified in favour of the Petitioner at this stage. Counter has been filed as far back as on 7.8.96 and still the dependency criteria has not been received from the Govt. of India. Averment made in paragraph-11 also shows that the Respondents admit that the Petitioner is Ors. wise entitled Family Pension. The daughter of the Petitioner expired as far back as on 6.9.96 and here the Petitioner is still struggling for getting the pension and gratuity in respect of her daughter.

6. It is now trite that the Pension and Ors. retiral benefits are no more a bounty to be distributed by the Government. It has become a right in the hands of the Govt. servants. If there is a culpable delay in making availability of Pension and Ors. retiral benefits that itself would invite heavy interest. In the instant case the Respondents are in utter negligence in settling the pension and gratuity in respect of Petitioner's daughter. It is stated by the Petitioner that although an amount of Rs. 20,250/- said to have been deposited in the Bank A/c of the Petitioner, no such amount has been deposited till today in the Petitioner's A/c.

7. In the facts and circumstances cited above, Respondents are directed to finalise the Pension paper within a period of four months from the date of receipt of this order. If the Pension and Ors. retiral benefits are not paid within the stipulated period of four months, it shall carry an interest @ 12% per annum from the date of payment is due till the payment is made.

8. This petition is allowed with costs which I quantify at Rs. 10,000/- to be paid by the Respondents to the Petitioner.

9. Respondent No. 4 shall make an enquiry into this aspect as to what happened

to the amount of Rs. 20,250/- covered by letter dated 23.6.97 as stated above and fix responsibility on the erring officer and take any action if any, as deemed fit and proper.

10. With the aforesaid directions, this writ petition is allowed to the extent as indicated above.