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**(2012) 06 GAU CK 0072**  
**In the Gauhati High Court**  
**Case No : Writ Petition (C) No. 961 of 2011**

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| Smt. Mira Rabha           | Vs | APPELLANT  |
| State of Assam and Others |    | RESPONDENT |

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**Date of Decision :** 22-06-2012

**Acts Referred:**

**Citation :** (2013) 1 GLD 25

**Hon'ble Judges :** B.K. Sharma, J

**Bench :** Single Bench

**Advocate :** S. Hoque, for the Appellant; M.R. Pathak, SC, Education Deptt. and Mr. A. Chetry, for the Respondent

**Final Decision :** Allowed

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## Judgement

B.K. Sharma, J.—As noticed in the earlier proceedings, this a unique case of its kind in which the petitioner, who is the wife of Late Harendra Rabha, was deprived of family pension and other retirement benefits in respect of the services rendered by her husband, Head Teacher of Chesapani LP School in the district of Goalpara. The husband of the petitioner died while was serving as such on 3.11.1981. Even after expiry of long 30 (thirty) years, when the petitioner was not paid her entitled family pension and other retirement benefits, she filed the instant writ petition. It is only because of monitoring of the case by this Court, the petitioner could eventually get her dues. Thus, it took long 30 (thirty) years to settle the pension case of the petitioner. The officers in the Education Department woke up from the deep slumber when the matter was viewed seriously and directions were issued even to the extent of payment of Rs. 5 Lakhs (Rupees five lakhs) to the petitioner on or before 13.2.2012. The respondents instead of accepting their responsibility, filed a review petition seeking a review of the direction for payment of Rs. 5 Lakhs. However, the said proceeding was dropped when it was brought to the notice of this Court that in the mean time, the petitioner was paid her family pension an other retirement benefits, which came to be more than Rs. 5 Lakhs.

2. Noticing the inordinate and un-explained delay on the part of the Education Department in finalizing the case of the petitioner, this Court issued direction to furnish explanation for the cause of delay. In terms of the said order, the Director of Elementary Education, Assam has filed an affidavit on 12.6.2012, in which there is no explanation whatsoever for the cause of delay from 1981 to 2009. According to the said affidavit the case of the petitioner was processed on receipt of an application from her on 25.2.2009. The said affidavit reveals that the service book of the petitioner was lost but no endeavour was made to reconstruct the same towards payment of family pension, It was incumbent on the part of the officials of the Education Department to finalise the pension case of the petitioner once it was known to them that the husband of the petitioner died while in service on 30.11.1981.

3. The affidavit filed by the Director of Elementary Education, Assam, gives an impression that: it is only on persuasion of the retired teachers; they are provided with pension as if the officials of the Education Department, who are concerned with initiation and finalization of pension cases, have no responsibility to do so unless they are approached by the retirees. This is an unfortunate state of affair with the Education Department.

4. Heard Mr. S. Hoque, learned counsel for the petitioner. Also heard Mr. M.R. Pathak, learned standing counsel, Education and Mr. A-Chetry, learned standing counsel, pension and Public Grievance Department.

5. Keeping in mind the plight of the retired Govt. employees, this Court vide judgment and order reported in Suchana Banerjee Vs. State of Assam and Others, , which was also a case from Education department had issued the following directions

11. Considering the matter in its entirety, this writ petition disposed of with the following directions:--

(1) The state Government should immediately show its, response to the aforesaid proposal made by the Director of pension towards clearing around 3000 pension cases within 3 (three months, which must include the case of the petitioner.

(2) The state Government should also seriously consider as to the cause of delay towards finalization of pension cases and the sufferings to which the retired employees are subjected to, towards getting their pension cases cleared.

(3) While giving attention to the cause of delay towards finalization of pension cases and the harassment to which the retired employees are subjected to, the Government of Assam shall also take into account the relevant rules/guidelines in terms of which the pension cases are required to be cleared with in the prescribed time limit. In this connection, the state Government shall also bear in mind the Annexure-"A" minutes of discussion dated 24.6.2010 Annexure-"B" communication dated 24.6.2010 addressed to all the administrative departments

etc. by the chief secretary of the state, copies of which have been annexed to the affidavit filed by the chief Secretary. In the said affidavit, the chief Secretary has also annexed the copy of the office memorandum dated 29.4.1976 laying down the guidelines and time limit towards clearing the pension cases.

(4) The pension case of the petitioner must be cleared on or before 30th September, 2010 failing which she will be entitled to receive interest @18% per annum on the accrued pensionary and other retirement benefits.

(5) The State Government in the aforesaid departments and for that matter, the chief Secretary of the State shall ensure finalization of all pension cases within the stipulated period of time fixed in the rules/guidelines. In the event of any delay, the responsible officers/employees should be held responsible for departmental proceeding and payment of interest.

(6) All the aforesaid steps shall be made by the state Government in the appropriate departments so that the retired officers/employees of the state Government are not subjected to any harassment towards finalization of their pension cases and that due attention is given to all such cases so as to clear the same within the stipulated period of time.

(7) Any violation on the part of the State Government to implement the aforesaid directions would be viewed seriously and consequently, the responsible officer(s) will be liable not only for contempt of Court proceeding, but will also be liable for payment of interest on delayed payment.

(8) As regards the claim of the petitioner for arrear salary, necessary verification in this regard shall be carried out by the departmental authorities and clear the same within the said stipulated period. Whatever admissible amount is payable to the petitioner as arrear salary, same shall be so paid within the aforesaid stipulated date i.e. 30th September, 2010 failing which the amount found payable, shall also carry interest @18% per annum.

(9) In the event of liability to pay interest to the petitioner in terms of this order, it will be open for the State Government to realize the same from the salaries of the responsible officers.

6. The said judgment was delivered on 19.7.2010 and the last application submitted by the petitioner involved in this case was on 25.2.2009. Thus, at the time of delivering the judgment, the case of the petitioner was known to the officials of the Education Department but yet they did not take any action to finalise her case. As stated above, it is only because of monitoring of the case by this Court, the petitioner has eventually received her pension.

7. Considering the matter in its entirety and also the Prayer of the petitioner to pay her family pension w.e.f. 1.12.1981 along with interest, this writ petition disposed of taking note of the fact that the respondents have already paid the pensionary and other retirement benefits to the petitioner and also providing that the petitioner will be entitled to compensation for delayed payment of pension;

which is quantified at Rs. 3 Lakhs (Rupees three lakhs) to be borne by the guilty officials of the Education Department who were holding different offices from 1981 to the date when the pension case of the petitioner was finalised. The Chief Secretary of the State will ensure that the guilty officials are brought to record and appropriate departmental proceedings are initiated against them and also the amount of compensation awarded by this Court, is realized from them. The compensation of Rs. 3 lakhs shall be paid to the petitioner as early as possible but at any rate not later than 31.8.2012. Writ petition is allowed, without however, any order as to costs.