

GAHC010118142019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 3523/2019

1:NAGEN CHANDRA DAS
S/O- LT BHAGO RAM DAS, R/O- LIG-A, UNIT NO. 303, CHANDMARI
COLONY, GHY-3, P.O. BAMUNIMAIDAM, P.S. CHANDMARI, DIST- KAMRUP
(M), ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY., DEPTT. OF URBAN DEVELOPMENT
DEPTT., DISPUR, GHY-6

2:THE ASSAM STATE HOUSING BOARD
R.G.BARUAH ROAD
GHY-5

3:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G.BARUAH ROAD
GHY-5

4:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G.BARUAH ROAD
GHY-

Advocate for the Petitioner : MR. S BORA

Advocate for the Respondent : GA, ASSAM

WP(C) 3539/2019

1:SUREN BHAGAWATI
S/O- LT BHUDEV CHANDRA BHAGAWATI
R/O- H.NO. 6
BHASKARNAGAR
SIVA MANDI PATH
GHY-21
P.O. BAMUNIMAIDAM
P.S. GITANAGAR
DIST- KAMRUP (M)
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY.
DEPTT. OF URBAN DEVELOPMENT DEPTT.
DISPUR
GHY-6

2:THE ASSAM STATE HOUSING BOARD
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R.G.BARUAH ROAD
GHY-5

4:THE COMMISSIONER
ASSAM STATE HOUSING BOARD
R.G.BARUAH ROAD
GHY-5

Advocate for the Petitioner : MR. S BORA
Advocate for the Respondent : GA
ASSAM

WP(C) 3765/2019

1:BHAGAWAN SARMA
S/O LT. GOPAL CHANDAR SARMA
R/O WARD NO. 5

L.N.B. ROAD
KARIM CHOWKA
P.O. AND P.S. MANGALDOI
DIST.-DARRANG
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
COMMISSIONER AND SECRETARY
DEPTT. OF URBAN DEVELOPMENT
DISPUR
GUWAHATI-6

2:THE ASSAM STATE HOUSING BOARD
R.G. BARUAH ROAD
GUWAHATI-5

3:THE CHAIRMAN
ASSAM STATE HOUSING BOARD
R.G.BARUAH ROAD
GUWAHATI-5

4:THE COMMISSIONER
ASSAM STATE HOUSING BORAD
R.G. BARUAH ROAD
GUWAHATI-5

Advocate for the Petitioner : MR. S BORA
Advocate for the Respondent : GA
ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

Date : 01-06-2020

The petitioners in these three writ petitions have raised a common grievance. They are the retired employees of the Assam State Housing Board (for short Housing Board), an Autonomous Body within the control of the Government of Assam. The grievance of the petitioner in brief is that even after their retirement on attaining the age of superannuation,

their retirement dues have not been paid.

The petitioner-Nagen Chandra Das in WP(C) No.3523/2019 had superannuated from service as Superintendent of the Housing Board on 31.03.2018. Similarly, Shri Suren Bhagawati, petitioner in WP(C) No.3539/2019 had retired on 31.01.2018 as Zonal Housing Officer (i/c) and likewise, Shri Bhagawan Sarma, petitioner in WP(C) No.3765/2019 had retired as Sub-Divisional Housing Officer w.e.f. 31.03.2014. After such retirement, the Housing Board ought to have paid their retirement dues, including the pension. However, the same has not been paid, forcing the petitioners to approach this Court by invoking the equitable jurisdiction under Article 226 of the Constitution of India.

I have heard Shri S Bora, learned counsel for the petitioners and Shri I Choudhury, learned Standing Counsel, Assam State Housing Board.

The respondents-Housing Board has also filed its affidavit in two of the cases which would also cover the third case.

Shri Bora, learned counsel for the petitioners submits that pension and other post retirement benefits are not bounty; rather, matters of right, which the petitioners have earned after working for a long periods of time in a particular organization. There is no scope for the employer to deny its retired employees from their post retirement benefits.

Referring to the affidavit-in-opposition, Shri Choudhury, learned Standing Counsel submits that there is no *mala fide* intention on the part of the Housing Board to deprive of the petitioners from their post retirement benefits and it is only because of the fact that the present financial position of the Housing Board is absolutely weak and there is no fund. He, however, submits that as and when the funds are available, all the pending dues of the retired employees of the Housing Board would be cleared. He, further submits that at present, a number of quarters owned by the Housing Board are on the verge of allotment which is awaiting finalization of the policy and once such allotment is made, sufficient funds would be generated to meet the present crisis and other needs of the Housing Board.

After taking into consideration the respective cases as projected, this Court is of the opinion that the plea of lack of funds though may be correct, the same is not legally tenable inasmuch as pension and other post retirement benefits are sacrosanct rights earned by an

employee by working for a long tenure in a particular organization. In case of lack of funds, the Housing Board has all the powers and means to approach the State Government to make available such amount of funds to meet the day-to-day functioning and to make payments to its retired employees and other entitlement of the employees.

Needless to say that after retirement, an employee suffers from immense hardships as the regular flow of income stops and only to lead a decent life, the post retirement benefit is granted to an employee. However, if such an employee is deprived of the post retirement benefits, that too, for a long period, it is only not the employee but the entire family would be put to face the grave hardships.

In that view of the matter, this writ petition is allowed directing that the post retirement benefits of the petitioners be made available within a period of 4 months from today. The Housing Board may take all necessary steps to generate/gather funds by approaching the State Government or by any lawful means by conducting the business of the Board.

It is made clear that in case of further delay, the amount in question would accrue interest at the rate of 6%.

The writ petitions are disposed of.

JUDGE

Comparing Assistant