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

Case No. : WP(C)/6643/2025

SMTI MINA SONAR
W/O LATE GOPAL BAHADUR SONAR, R/O MILON NAGAR, P.O.- C.R. BUILDING, DIBRUGARH, P.S- CHOWKIDINGHEE, P.O- DIBRUGARH , ASSAM, PIN-786003

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, DISPUR, GUWAHATI- 781006

2:THE SECRETARYTO THE GOVERNMENT OF ASSAM
PERSONNAL (B) DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI- 781006

3:THE SECRETARY TO THE GOVERNMENT OF ASSAM
IRRIGATION DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI- 781006

4:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM SACHIVALAYA
DISPUR
GUWAHATI- 781006

5:THE CHIEF ENGINEER
IRRIGATION
ASSAM

CHANDMARI
GUWAHATI- 781003

6:THE EXECUTIVE ENGINEER
DIBRUGARH DIVISION (IRRIGATION)
DIBRUGARH
P.O. AND DIST- DIBRUGARH
ASSAM
PIN- 78600

Advocate for the Petitioner : MS. M DEV, MS N DEB,MS P DEB

Advocate for the Respondent : GA, ASSAM, SC, FINANCE,SC, IRRIGATION,SC, PERSONNEL DEPT.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.10.2026

Heard Ms. M. Dev, learned counsel for the petitioner. Also heard Shri T. C. Chutia, learned Senior Advocate and Addl. Senior Govt. Advocate, Assam assisted by Ms. J. Sarma, learned counsel. Shri M. Sarma, learned Standing Counsel, Irrigation Department is also present.

2. Considering the subject matter involved and also the aspect that pleadings have been exchanged, the writ petition is taken up for disposal at the admission stage.

3. The petition has been filed with the following prayers:

> "*In the premises aforesaid, it is therefore prayed that Your Lordships may be pleased to admit this petition, call for the records and issue a Rule calling upon the Respondents to show cause as to why a Writ in the nature of Mandamus should not be issued directing the Respondents Authorities to take necessary action to avail the Petitioner's service under Old Pension Scheme (OPS) instead of New Pension Scheme (NPS) considering the filing of the application of the Petitioner on compassionate ground in the year 1999 and to release all consequential benefit to the Petitioner and after perusal of records, causes*

being shown if any and after hearing the parties, Your Lordships would be pleased to make the Rule absolute and /or pass such further or other order or orders as Your Lordships may deem fit and proper.

-AND-

Pending disposal of the Rule, Your Lordships may be pleased to direct the Respondents Authorities to consider the service of the Petitioner under Old Pension Scheme instead of New Pension Scheme in the interest of Justice."

4. As per the facts projected, the husband of the petitioner was an employee of the Irrigation Department who had died-in-harness on 10.09.1999 and the petitioner had applied for appointment on compassionate ground. However, her application was not considered and after reminders, the application was finally considered and the petitioner was appointed in the year 2015 in a Grade-IV post under the Office of the Executive Engineer, Dibrugarh Division (Irrigation).

5. The petitioner is claiming pension under the Old Pension Scheme.

6. Ms. Dev, the learned counsel for the petitioner has submitted that the delay in appointment is not because of any fault of hers and such right had accrued upon her in the year 1999 itself and if such appointment was made at the relevant point of time, the petitioner would have been entitled to the benefits of the Old Pension Scheme. She has submitted that for the fault of the Department, the petitioner cannot be made to suffer.

7. On the other hand, Shri Chutia, the learned Addl. Senior Govt. Advocate, Assam has submitted that the New Pension Scheme came into force from 01.02.2005 and it is not in dispute that the appointment of the petitioner was after a decade from the introduction of the New Pension Scheme. He submits that it is the date of appointment which will govern the aspect of the Scheme under which a petitioner on retirement would be entitled to the pension. He has

also categorically denied that there has been any negligence on the part of the Department to consider and appoint the petitioner.

8. The rival contentions advanced in the Bar have been duly considered and the materials placed before this Court have been carefully examined.

9. At the outset, this Court would like to deal with the aspect of the mode of appointment itself of the petitioner. The appointment of the petitioner is under the compassionate ground as her husband, who was a Government employee had died-in-harness on 10.09.1999. It is trite that such claim is not an indefeasible claim and the only claim is for a fair consideration.

10. Be that as it may, the petitioner was appointed in the year 2015. However, way back in the year 2005, the New Pension Scheme was introduced. This Court is unable to accept the contention advanced on behalf of the petitioner that the petitioner be given the benefits of the Old Pension Scheme by deeming her to be appointed in the year 1999. This Court is of the opinion that the date of the appointment would be the primary consideration for examining under which scheme of pension an employee would be covered. Since the appointment is of the year 2015, the claim to have the benefit of the Old Pension Scheme is not tenable in law.

11. Writ petition accordingly stands dismissed.

JUDGE

Comparing Assistant