

Heard Mr. H. Das, counsel for the petitioner. Also heard Mr. U.K. Nair, senior counsel for the respondent No. 2, Ms. R. Aktur, counsel for the respondent No. 3 as well as Mr. D.P. Borah, standing counsel PWD.

2. The petitioner's case in brief is that her husband Sugen Marak died in harness on 15.09.1994. The petitioner's husband, who was a Muster Roll labourer was brought into the regular cadre w.e.f 27.10.1990. The petitioner had made a claim for payment of Family Pension from 15.09.1994. However, the State respondents granted Family Pension to the petitioner w.e.f 20.05.2009.

3. The petitioner's counsel submits that a direction should be issued to the respondent authorities to pay to the petitioner the arrear Family Pension from 15.09.1994 to 19.05.2009.

4. Mr. U.K Nair, senior counsel for the respondent No. 2 submits that the petitioner's case for payment of pension can be considered under Rule 140 & 141 of the Assam Services (Pension) Rules, 1969. However, the petitioner's claim for arrear pension will have to be limited to 3 years prior to filing the original writ petition, which is W.P(C) No. 4427/2012, which was disposed of on 18.09.2012

5. I have heard the learned counsels for the parties and on perusal of the records of the case, I find that the petitioner's husband had been regularized as a regular Muster Roll labourer on 27.10.1990 and he worked as such till his death on 15.09.1994.

6. In view of the fact that the petitioner's husband had completed a minimum of 1 year service, while being a regular Government Servant, as per Rule 140 of the Assam Services (Pension) Rules, 1969, the petitioner is entitled to be paid the proportionate Family Pension as per Rule 141 of the Assam Services (Pension) Rules, 1969.

7. In the case of S.K. Mastan Bee v. General Manager, South Central Railway and Another, reported in (2003) 1 SCC 184, the Apex Court had granted Family Pension to the illiterate widow of the Government Servant and held that delay and laches would not be fatal, as it was the obligation of the Railways to have computed the Family Pension and offered the same to the widow of its employee as soon as it became due to her and also in view of the widow being an illiterate person. However, in the case of Union of India v. Tarsem Singh, reported in (2008) 8 SCC 648, the Apex Court has held that on issues regarding payment of pension, the High Court should restrict the relief relating to arrears of Family Pension to a period of 3 years before the date of filing the writ petition.

9. In the case of Harendra Chandra Nath v. State of Tripura, reported in 2013 (2) GLT 109, the Division Bench of this Court has held that there was no right to recover arrears beyond 3 years from the date of filing of the original writ petition.

10. In the present case, the original writ petition, i.e., W.P(C) No. 4427/2012 was filed in the year 2012. Accordingly, the petitioner should be given arrear Family Pension period by the respondents from a period of 3 years, prior to the date of filing W.P(C) No. 4427/2017.

11. Writ petition is accordingly disposed of.