

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 962 of 2022

Pukhrambam (N) Ibemcha Devi, aged about 50 years,
W/O K. Sarat Singh, resident of Kodompokpi Mamang
Leikai, P.O. Wangoi, P.S. Nambol, District Imphal West,
Manipur – 795134.

... PETITIONER

-VERSUS-

1. The State of Manipur represented by the Commissioner/Secretary (Home), Government of Manipur, Old Secretariat, Babupara, Imphal-795001.
2. The Deputy Commissioner, Bishnupur, Manipur – 795126.

... *RESPONDENTS*

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN

For the Petitioner :: Mr. N. Zequeson, Adv.
Mr. Th. Monish Anand, Adv.

For the Respondents :: Mr. Sh. Shyam Sharma, GA

Date of Hearing and
reserving Judgment & Order :: 10.08.2023

Date of Judgment & Order :: **23.08.2023**

JUDGMENT AND ORDER
(CAV)

Heard Mr. N. Zequeson, learned counsel for the petitioner and Mr. Sh. Shyam Sharma, the learned Government Advocate for the respondents.

2. This writ petition has been filed by the respondents for issuance of a writ of mandamus directing the respondents to release the compensation amount to the petitioner with interest.

3. Mr. N. Zequeson, the learned counsel for the petitioner submitted that the petitioner is the elder sister of one Pukhrambam Inao @ Ibungo Singh, who was killed by the Imphal West District Police Commando in a fake encounter on 31.5.2008. The wife of the deceased filed W.P.(C) No.632 of 2008 before the Gauhati High Court, Imphal Bench for grant of compensation. By the order dated 16.12.2016, the High Court directed the respondents therein to pay a sum of Rs.5.00 lakh to the wife of the petitioner as compensation within a period of four months. Pursuant to the direction, the Deputy Commissioner, Bishnupur had also accorded sanction for a sum of Rs.5.00 lakh to the next of kin of the deceased. The Commissioner, Bishnupur also directed the wife of the deceased to appear before him on 10.4.2017.

4. The learned counsel for the petitioner further submitted that the wife of the deceased, namely Soni Devi got remarried to one Bidur Singh of Wangoi leaving behind three minor children in the custody of the petitioner during the last part of 2016 and since then the petitioner is taking care of the said three minor children. The petitioner and other sisters of the deceased have filed Mat. (G&W) Petition No.5 of 2017 before the Family Court, Manipur, for appointing the petitioner as guardian of the three minor children left by the deceased. By the order dated 16.7.2019, the Family Court allowed the said petition with a direction to the petitioner to deposit 1/3rd of the compensation amount as fixed deposit in the name of the said minors. Despite repeated demands made by the petitioner to the second respondent by showing the relevant orders, the said authority has failed to release the compensation amount to the petitioner, which necessitated the petitioner in filing the present writ petition for direction to release the compensation amount. Thus, a prayer has been made to allow the writ petition.

5. On the other hand, Mr. Sh. Shyam Sharma, the learned Government Advocate submitted that there reason for non-payment of compensation to the petitioner is because of the existence of the High Court's order in W.P.(C) No.632 of 2008

wherein the Gauhati High Court, Imphal Bench directed to pay the compensation to Soni Devi, wife of Pukhrambam Inao @ Ibungo Singh and the respondent authorities are ready to obey the direction issued by this Court in the present proceedings.

6. This Court considered the rival submissions and also perused the materials available on record.

7. Earlier when the wife of the deceased approached the Gauhati High Court, Imphal Bench by filing W.P.(C) No.632 of 2008 seeking for compensation, this Court passed the following direction:

“[5] Accordingly, in view of the above submissions and reasons discussed above, the present writ petition stands disposed of with the direction to the State respondents No.1 and 2 to pay a sum of Rs.5.00 lakhs to the petitioner within a period of 4 (four) months from the date of communication of this judgment and order. If the petitioner is not satisfied with the compensation so granted, she may approach the Civil Court for higher compensation. It is further provided that if the aforesaid compensation of Rs.5 lakhs is not paid within the aforesaid period, it will attract interest @ 9% per annum after 4 (four) months.

[6] With the above directions, this writ petition stands disposed of.”

8. It appears that pursuant to the direction of this Court, the second respondent accorded sanction to the amount of Rs.5.00 lakh vide order dated 21.3.2017. On 3.4.2017, the second respondent issued notice to Soni Devi to appear on 10.4.2017 in connection with the payment of ex-gratia awarded by the Court.

9. According to the petitioner, since Soni Devi, wife of the deceased, got remarried during the last part of the year 2016, she has not appeared before the second respondent. Now the minor children are in the custody of the petitioner and she is only looking after the minor children. To show that the petitioner has been appointed as guardian of the minors, she has produced the copy of the order passed in Mat. (G&W) Petition No.5 of 2017 by the Family Court, Manipur.

10. The order/certificate dated 16.7.2019 issued in Mat. (G&W) Petition No.5 of 2017 reads thus:

“Whereas this court, has under the provisions of section 7 of the Guardians & Wards Act, 1890 been pleased to appoint you to be the guardian of person of the minors namely (i)

Pukhrambam Anjali Devi (13), (ii) Pukhrambam Raju Singh (10) and (iii) Pukhrambam Nanaobi Devi (8) years respectively children of late Pukhrambam Inao @ Ibungo Singh and Pukhrambam Ongbi Soni Devi (now re-married) during the period of their minority to wit, till they shall have completed their age of 21 yrs. subject to the provisions contained in the Act and particularly those provisions contained in Secs, 32, 39 and 40 of the Act aforesaid, you are hereby authorized to take charge of the guardian of person of the minor. The plaintiff No.3 is directed to deposit at least 1/3rd of the compensation amount in respect of the death of P.Inao Singh father of the minors receivable by them from the Government on account of the demise of their father in a fixed deposit Account in the name of minors and she shall cause such deposit by transfer of account to the Bank Account in the name of minors and shall not make any withdrawal of any amount from the bank account of the minors without the prior permission of this Court. The plaintiff No.3 shall furnish a bond of Rs.50,000/- (Rupees fifty thousand) only with a surety bond of a like amount in compliance with the said direction. The appointment of the guardian be issued on acceptance of the bonds by the Court.”

11. From the order aforesaid, it is clear that the petitioner herein has been appointed as guardian of the minor children of the deceased Pukhrambam Inao @ Ibungo Singh and Pukhrambam Ongbi Soni Devi. In the said order itself, it has been recorded that the said Soni Devi got remarried. In view of the above, there may not be any interest by the said Soni Devi in the compensation awarded by the Court in W.P.(C) No.632 of 2008. Further, the order of the Family Court stipulates that the petitioner herein to deposit 1/3rd of the compensation amount in respect of the death of the deceased receivable by the minors from the Government on account of the demise of their father in a fixed deposit.

12. It appears that after obtaining the order dated 16.7.2019, the petitioner has sent a legal notice to the second respondent requesting for payment of compensation amount. Pursuant to the said legal notice of the petitioner, the second respondent, on 16.10.2019, addressed a letter to the Deputy Commissioner, Imphal West District for verification of the petitioner as the next of kin of the deceased and cause enquiry and furnish a report to the office of the second respondent to facilitate the disbursal of ex-gratia to the next of kin. Accordingly, the Deputy Commissioner, Imphal West District enquired and

submitted a report to the second respondent stating that the petitioner is the sister of the deceased Pukhrambam Inao @ Ibungo.

13. As the mother of the minor children got remarried and the said fact has not been disputed by the respondents and the same was also recorded by the Family Court in its order dated 16.7.2019 that Soni Devi remarried, as per succession, the minor children of the deceased are entitled the said compensation awarded by the High Court in W.P.(C) No.632 of 2008. Since the minor children are in the custody of the petitioner, on behalf of the minors, the petitioner is entitled to receive the said compensation.

14. The respondents contend that the reason for non-payment of compensation to the petitioner is because of the existence of the order dated 16.12.2016 in W.P.(C) No.632 of 2008 and no fault can be attributed against the respondents for the delay caused. Since Soni Devi left the matrimonial home of the deceased and got remarried and also living separately with her remarried husband leaving behind the three minor children in the custody of the petitioner and the petitioner is now taking care of the minor, there is no obstacle by the petitioner to receive the

compensation awarded by the High Court for the death of the deceased on behalf of the minor children.

15. That apart, till date, the Soni Devi has not raised any objection in releasing the compensation to the petitioner. Since Soni Devi got remarried, she is not entitled to receive the compensation awarded by the High Court for the death of the deceased. Taking into consideration the fact that the minor children are in the custody of the petitioner after their mother got remarried and the Family Court appointed the petitioner as guardian of the minors and also directed the petitioner to deposit 1/3rd of the compensation amount in respect of the death of the deceased receivable by the minors in the fixed deposit, this Court is of the view that there is bona fide in the claim of the petitioner.

16. The petitioner contends that she is facing hard financial problem in maintaining the day-to-day lives of the three minor children, including the food, cloth and other school fees. Admittedly, the petitioner has to spent considerable amount for maintaining the children. In its order the Family Court recorded the age of minors as 13, 10 and 8 respectively. The order the Family Court is of the year 2019. If we calculate the age of the minors, now the age of the minors is 17, 14 and 12 years respectively.

17. As stated supra, the second respondent has taken steps to facilitate the disbursal of ex-gratia to the next of kin after the order passed in the Mat. (G&W) Petition No.5 of 2017 and in that process, the second respondent also verified through the Deputy Commissioner, Imphal West District about the relationship of the petitioner with the deceased.

18. In view of the fact that the mother of the minors got remarried leaving the minor children in the custody of the petitioner, in the interest of welfare of the minor and in the interest of justice, the petitioner is entitled to receive the compensation awarded by the Gauhati High Court, Imphal Bench in W.P.(C) No.632 of 2008 dated 16.12.2016 on behalf of the minor children with a condition that she should deposit 1/3rd of the compensation amount in the name of the minors in a fixed deposit as directed in Mat. (&W) Petition No.5 of 2017 dated 16.7.2019.

19. In the result,

- (i) The writ petition is allowed.
- (ii) The respondent authorities are directed to release the compensation amount as directed in W.P.(C) No.632 of 2008 dated 16.12.2006 to the petitioner within a period of four weeks

from the date of receipt of a copy of this order.

- (iii) On receipt of the compensation, the petitioner shall deposit 1/3rd amount in the name of minor children of the deceased in a fixed deposit account till they attain majority.
- (iv) The remaining amount shall be utilised by the petitioner for the maintenance and welfare of the minor children and their educational purpose.
- (v) If anyone of the minor attains majority, the petitioner is at liberty to approach the Family Court, Manipur for withdrawal of the amount in respect of the particular minor on filing application. Any such application is filed, the Family Court, Manipur, may pass appropriate order for withdrawal upon verification.
- (vi) No costs.

20. It is made clear that the aforesaid order has been passed to render justice to the minor children and also taking into consideration the welfare of the minor children and also the financial difficulties now facing by the petitioner in maintaining the lives of the minors.

ACTING CHIEF JUSTICE

FR/NFR

Sushil