

MC(WA) No. 24 of 2022

Date of order: 15.03.2023

Union of India & ors

vs

Parbati Thapa

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Applicants : Dr N. Mozika, DSG with
Ms A. Pradhan, Adv.

For the Respondent : Mr H.L. Shangreiso, Sr Adv. with
Mrs P. Biswakarma, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

In view of the good grounds shown, the marginal delay of about 65 days in preferring the appeal is condoned and the appeal is taken up for immediate consideration.

2. The matter pertains to the claim made by the widow of an erstwhile Lance Naik in the Assam Rifles.

3. The concerned employee was discharged from service on May 15, 1951 and died in the year 2010. It is an undisputed position that the concerned employee did not seek or obtain regular pension till the time of his death. It is possible that there was no provision for pension at the

time of his discharge and such provision was subsequently introduced; but the fact remains that no claim was made by the concerned employee in such regard.

4. It was only in the year 2016 that the respondent herein applied to Assam Rifles for family pension. Following the rejection of the claim, on the ground that it had been belatedly made and that the concerned employee had not sought pension during his lifetime, the respondent carried a petition to this Court under Article 226 of the Constitution. The petition has been partly allowed by a judgment and order of September 19, 2022. The writ court was of the view that the respondent herein was entitled to family pension, but only from a period three years prior to the date of presentation of the petition, that is the year 2016, and not for any period prior to that.

5. The appeal has been carried by Assam Rifles primarily on the ground that in view of the complete waiver on the part of the concerned employee to claim pension, the widow could not have resurrected the claim after nearly 60 years of the employee's discharge from service and six years after the death of her husband.

6. When the appeal was received, this Court was minded to request Assam Rifles to consider the matter so that the legal issue raised would not have to be considered. After all, the concerned employee may have

been entitled to regular pension for a long period of time and the widow would also be entitled to family pension upon the death of her husband; but the writ court had provided for family pension to the widow only from the year 2016.

7. Since the matter has been resolved between the parties and Assam Rifles has agreed to provide family pension to the respondent voluntarily, the order impugned will not be regarded as a precedent. It is hoped that the money already due to the respondent on account of family pension would be released to her within four months from date and that the monthly payments from June, 2023 onwards will be paid on regular monthly basis.

8. WA No. 6 of 2023 along with MC (WA) No. 24 of 2022 are disposed of.

9. There will be no order as to costs.

(H. S. Thangkhiew)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
15.03.2023
"Sylvana PS"