

GAHC010008892018



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

Case No. : WP(C)/292/2018

BIJU CHOUDHURY
WIFE OF LATE ARUN CHOUDHURY, RESIDENT OF VILLAGE- ALENGIDOL,
P.O. JANIGOG, DIST. NALBARI (ASSAM).

VERSUS

THE ASSAM POWER DISTRIBUTION CO. LTD.
REPRESENTED BY THE CHIEF GENERAL MANAGER (D) APDCL, LAZ
BUJULEE BHAWAN, GUWAHATI-1.

2:THE CHIEF GENERAL MANAGER (HR) APDCL
BIJULEE BHAWAN
GUWAHATI-1.

3:THE GENERAL MANAGER
GUWAHATI ZONE APDCL
LAR
SIX MILE
GUWAHATI-22

4:THE DEPUTY GENERAL MANAGER
RANGIA ELECTRICAL CIRCLE
RANGIA ASSAM POWER DISTRIBUTION CIRCLE
LOWER ASSAM REGION
PIN-781354

5:THE ASSISTANT GENERAL MANAGER
NALBARI ELECTRICAL DIVISION
APDCL
LAR
NALBARI
PIN-781335

6:THE DEPUTY COMMISSIONER
NALBARI
NALBARI

7:CHIEF ELECTRICAL INSPECTOR
HOUSEFED COMPLEX
1ST FLOOR
WEST END BLOCK
BELTOLA-BASISTHA ROAD
DISPUR
GUWAHATI

Advocate for the Petitioner : MR. D K KOTOKY

Advocate for the Respondent : MR S CHAKRABORTY (SC, APDCL)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 16/10/2023

Heard Mr. D. K. Kotoky, learned counsel for the petitioner. Also heard Mr. K. P. Pathak, learned standing counsel, APDCL.

2. This writ petition is filed by the petitioner praying for a direction to the respondents to provide adequate livelihood to the petitioner, whose husband expired because of an unfortunate accident, which resulted because of a live G.I wire, which got disconnected from the pole due to an accident caused in the course of vehicular traffic near the residence of the petitioner.

3. The learned counsel for the petitioner submits that on 10.01.2013 an accident took place in front of the house of the petitioner at Alengidol, Nalbari when a vehicle hit a roadside electrical post carrying a 33 KV electrical line. The electricity service line supported by G.I wires came in contact with the 33 KV conductors and it fell down on the road. The husband of the petitioner, late

Arun Choudhury on hearing commotion, came out of his house and rushed to the spot to rescue the persons inside the offending vehicle. The local electricity supply office at Poyla was contacted over phone to disconnect electricity supply immediately. On the disconnection of the electricity, the late husband of the petitioner attempted to remove the wires from the road in apprehension that it may lead to further accident. However, while he was undertaking the said exercise, the G.I wires suddenly became live and as a result of that he suffered electrical shock and expired due to the injuries suffered. A case being Nalbari Police Station Case No. 33/2013 under Section 304 (A) of IPC was registered. The people of the locality demanded judicial inquiry into the death of the late husband of the petitioner, demanding proper installation of infrastructure for supply of electric current.

4. It is submitted by the learned counsel for the petitioner that the petitioner is survived by two minor daughters and her old mother-in-law, who were dependents on her late husband's income.

5. In view of the demands made, an undertaking was given by the respondent No.4, namely the Deputy General Manager, Rangia Electrical Circle, Rangia Assam Power Distribution Circle, Lower Assam Region that steps will be taken for employment of the petitioner, who is a widow of late Arun Choudhury as per departmental Rules.

6. The learned counsel for the petitioner submits that she is entitled to compensation. However, it is her prayer that in lieu of the compensation to be awarded, she may be made permanent in her post in the department. It is submitted that presently she is working as an Outsourced Bill Clerk. It is the submission of the learned counsel that petitioner is willing to forego the monetary compensation if her services are regularized under the APDCL in any

regular vacancy.

7. Learned counsel for the petitioner has referred to the Enquiry Report of the electrical accident submitted by the Chief Electrical Inspector, whereby the electrical inspector has narrated the incident which had occurred and had held that there was a contravention of the provisions of the Central Electricity Authority, Regulations 2010. The finding of the Electrical Inspector is that there was a contravention of Regulation 12 (1) on the part of the APDCL (Lower Assam Zone) in not installing or maintaining supply lines and apparatus of sufficient rating as required and sufficient mechanical strength in such a manner so as to ensure safety of human beings, animals and property.

8. Mr. K. P. Pathak, learned standing counsel, APDCL submits that the department has contested the Case by filing an affidavit and they have objected that the driver of the offending vehicle, which had hit the Electrical pole, was not made a party. It is further averred in the affidavit that the incident occurred because the petitioner's husband attempted to remove the G.I wire which became live in the process and consequently the accident occurred and the petitioner suffered electrical shock leading to his death. It is further averred in the affidavit that the Assistant General Manager, Nalbari Electrical Division, APDCL, LAR, Nalbari, namely respondent No. 5 is not the competent authority to give any assurances regarding appointment of compassionate ground.

9. Relying on the affidavit, Mr. Pathak submits that compassionate appointments are meant for employees, who die-in-harness and the same is as per the scheme prevalent in the company and finalized by the competent authorities. In the facts of the case it is submitted that the husband of the petitioner was not an employee of the company and did not die-in-harness while rendering service. As such, the prayer for compassionate appointment is not

applicable in the case of the husband of the petitioner. It is further submitted by the learned standing counsel that the petitioner may be considered for due compensation as per the scheme available, however, no such application has been made yet as on date.

10. Mr. Pathak, has also placed before the court the Office Memorandum No. MD/APDCL/Law Cell/110/2013/117 dated 07.11.2019 which lays down the amount of compensation payable for loss of human life and injury as per the AERC Regulations. The AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019 was notified in the Assam Gazette on 9th August, 2019. It is in terms of this AERC Regulation that the notification dated 07.11.2019 has been issued.

11. Learned counsels for the parties have been heard and pleadings on record have been perused. It is seen that by the Office Memorandum dated 07.11.2019 the compensation payable for human life and injury as per AERC Regulations are specified as under:-

*“1. Amount payable for loss of human life is **Rs.4,00,000/-** (Rupees Four Lakhs) only.*

*2. Amount payable for Permanent Total Disablement is **Rs.4,00,000/-** (Rupees Four Lakhs) only (List of injuries deemed to result in Permanent Total Disablement is mentioned in **Schedule "A"** of the Regulation)*

*3. Amount payable for Permanent Partial Disablement is minimum **Rs.1,00,000/-** (Rupees One Lakh) and maximum **Rs.4,00,000/-** (Rupees Four Lakhs) only. (List of injuries deemed to result in Permanent Partial Disablement is mentioned in **Schedule "A"** of the Regulation)*

*4. Amount payable for Temporary Total Disablement is minimum **Rs. 50,000/-** (Rupees Fifty Thousand) only and maximum **Rs.1,00,000/-** (Rupees One Lakh)*

only.

*5. Amount payable for Temporary Partial Disablement is minimum **Rs.25,000/-** (Rupees Twenty Five Thousand) only and maximum **Rs.50,000/-** (Rupees Fifty Thousand) only.*

(The percentage of disability is to be ascertained as per the certificate issued by the Director of Social Welfare, Government of Assam or any other authority empowered by the Government of Assam after being satisfied on proper medical examination by the competent authority).

6. Different amount of compensation for death of animals due to electrical accidents as notified in the Regulations are as follows:-

*a. Buffalo/Cow/Yak/Mithun—**Rs.30,000/-** (Rupees Thirty Thousand) only.*

*b. Sheep/Goat/Pig—**Rs.3000/-** (Rupees Three Thousand) only.*

*c. Camel/Horse/Bullock—**Rs. 25,000/-** (Rupees Twenty Five Thousand) only.*

*d. Calf/Donkey/Pony/Mule-**Rs.16,000/-** (Rupees Sixteen Thousand) only.*

12. The procedure prescribed to be followed under the Regulation is also indicated in the said Office Memorandum.

13. The claims made are required to be settled within a period of 120 days from the date of occurrence. One of the objections raised by the respondents is that there was no claim for compensation made by the petitioner as on date. However, we find that representations were issued to the respondent authority by the petitioner requesting for appointment in a suitable post. The petitioner represented on 19.05.2013 as well as 31.08.2015. It is seen that although the applications made by the petitioner were for appropriate appointment in the department pursuant to the accident that had occurred leading to the death of her husband, the respondent authorities considering the fact that there is a

finding by the Electrical Inspector holding the APDCL to be responsible and as it violated the provisions of The AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019, ought to have initiated the process of compensation payable to the petitioner as per their Regulations. The APDCL, on the other hand, did not proceed to provide for compensation only on the ground that no such application praying for specific prayer for compensation was made by the petitioner.

14. Be that as it may, this court is of the view that since there is already an Office Memorandum 07.11.2019 whereby compensation is payable for the loss of human life and injury and the amounts are duly specified, this Court is of the view that the matter need not be kept pending and can be closed with the direction to the APDCL to release the compensation amount in terms of the Office Memorandum dated 07.11.2019. The court is conscious of the fact that the accident took place in the year 2013. Nevertheless, notwithstanding that there is a specific finding by the Electrical Inspector holding that there is a default on the part of the APDCL leading to the accident which took place on 10.01.2013 which resulted in the death of the husband of the petitioner and notwithstanding that the writ petition having been filed by the petitioner, no attempt was made by the APDCL to resolve this issue by offering compensation to the petitioner.

15. This Court therefore directs the APDCL to process the claims for compensation in terms of the Office Memorandum No. MD/APDCL/Law Cell/110/2013/117 dated 07.11.2019 and release the same within a period specified, which is 120 days from the date of the receipt of a certified copy of this Order of this court. The writ petition accordingly stands closed in terms of the above. The present writ petition along with a copy of the certified copy of

this Order, be filed before the Managing Director and this writ petition will be taken to be the application necessary in terms of the Office Memorandum dated 07.11.2019 and thereupon the directions will be resolved within the outer limit of 120 days from the date the matter is received by the competent authorities.

16. With the above observation writ petition stands disposed of.

17. No order as to cost.

JUDGE

Comparing Assistant