

GAHC010061212018



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

Case No. : WP(C)/1869/2018

BHABEN BORAH @ PUTUL BORAH
S/O- LATE GOBINDA BORAH, R/O- VILL- MADHUPUR, P.O- MADHUPUR,
P.S- NAGAON (SADAR), DIST- NAGAON, ASSAM, PIN- 782001

VERSUS

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

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT
RELIEF AND REHABILITATION BRANCH
DISPUR
GUWAHATI- 06

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
PERSONNEL (B) DEPTT
DISPUR
GUWAHATI
ASSAM- 781006

4:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
FINANCE DEPTT
DISPUR
GHY- 781006

5:THE DEPUTY COMMISSIONER
NAGAON
P.O AND P.S- NAGAON
DIST- NAGAON

ASSAM
PIN- 782001

6:THE CIRCLE OFFICER
OF NAGAON SADAR REVENUE CIRCLE
P.O- NAGAON
DIST- NAGAON
ASSAM
PIN- 78200

For the Petitioner(s) : None appears.

For the Respondent(s) : Ms. P. R. Mahanta, SC, Revenue Department

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 20.09.2023

1. The instant writ petition has been filed by the Petitioner claiming an additional enhanced ex-gratia grant of Rs.2,00,000/- in terms with the Notification dated 22.06.2004 & 14.12.2004 and the Office Memorandum dated 29.07.2013.
2. The facts involved of the instant case are that the elder son of the Petitioner namely Lakhi Bora (since deceased) was killed by the extremists on 22.02.1994. Thereupon, vide an order dated 14.03.1997, the Government of Assam, Relief & Rehabilitation Department had sanctioned and paid an amount of Rs.25,000/- to the Petitioner as ex-gratia grant being the next of kin of his deceased son namely Late Lakhi Bora. Subsequently, the Petitioner also got total amount of Rs.1,00,000/- as ex-gratia grant from the Government of Assam on installment basis.
3. The case of the Petitioner herein is that subsequent thereto the Assam

Public Services (Appointment of Family Members of Persons Killed by Extremists/Terrorists) Rules, 1992 was repealed, vide the Government Notification dated 22.06.2004. The Commissioner & Secretary to the Government of Assam, Personnel (B) Department had issued a communication dated 22.06.2004 to all Deputy Commissioners stating inter alia that the Government had decided to consider the following measures in place of the Rule to give relief to the affected family. Amongst the various measures it was mentioned that there would be an enhancement of ex-gratia amount paid to the next of kin of a person killed in extremist violence to Rs.3,00,000/-. Subsequent thereto, vide another Notification dated 14.12.2004 the quantum of the exgratia compensation which was Rs.1,00,000/- was increased to Rs.3,00,000/- to the next of kin of persons killed in extremist/terrorist violence in the State on or after 22.06.2004. Subsequent thereto, there was another Office Memorandum issued on 29.07.2013. The said Office Memorandum was issued in pursuance to the direction passed by the Division Bench of this Court in WP(C) No.3355/2007, whereby it was held that application for appointment to Government posts made prior to 22.06.2004 would survive even after coming into force of the new Policy in 2004. In Clause (v) of the said Office Memorandum dated 29.07.2013 it was further stipulated that in case of persons killed in extremist violence prior to 2004 but whose relatives did not apply for any appointment prior to 22.06.2004 and had applied after 22.06.2004 and may or may not have received ex-gratia grant under the 2004 Notification i.e. Rs.3,00,000/- they shall be given appropriate ex-gratia payment in terms with the Notification dated 22.06.2004 adjusting the amount already received if any and they shall also be entitled to be considered under the Scheme envisaged in the Government Circle vide Notification dated 22.06.2004.

4. The Petitioner herein claims that on account of his elder son, he had already received Rs.1,00,000/-. In terms with the Office Memorandum dated 29.07.2013, the Petitioner is further entitled to an amount of Rs.2,00,000/-. The Petitioner thereupon had approached the Respondent Authorities on various occasions but the Petitioner had not been paid the additional amount of Rs.2,00,000/- for which the instant writ petition has been filed. This Court vide an order dated 02.04.2018 issued Notice.

5. I have heard the learned counsel for the parties and perused the materials on record.

6. Upon a perusal of the materials on record as well as the statement made in paragraph No.2 of the writ petition, it transpires that Sri Bhaben Borah i.e. the Petitioner had received an ex-gratia payment of Rs. 1,00,000/- on account of his elder son Late Lakhi Bora being killed by the extremists. From a reading of various Office Memorandums including the Office Memorandum dated 29.07.2013, the entitlement of the next of kin for an additional amount of Rs.2,00,000/- is there and in the instant case the Petitioner being the next of kin of Late Lakhi Bora would be entitled to an additional amount of Rs.2,00,000/-.

7. Accordingly, the instant writ petition therefore stands disposed off directing the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department to disburse the additional amount of Rs.2,00,000/- to the Petitioner after carrying out necessary verification as regards the identity of the Petitioner.

8. The said exercise be completed within a period of 3 (three) months from the date of submission of a certified copy of the instant order along with the

necessary documents identifying the Petitioner as the father of Late Lakhi Bora to the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department, Guwahati.

9. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant