

GAHC010127242021



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

Case No. : WP(C)/4055/2021

BASMOTI SHAH
W/O- LT. SATYENDRA SHAH, D/O- LT. MUTUR SHAH, VILL- NITAI DEORI
GAON, P.O. NATUN BALIJAN, DIST.- TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GHY-6

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
RELIEF AND REHABILITATION BRANCH
DISPUR
GHY-06

3:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PERSONNEL (B) DEPTT.
DISPUR
GHY-06

4:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GHY-06

5:THE DY. COMMISSIONER
TINSUKIA
TINSUKIA
DIST.- TINSUKIA
ASSAM
PIN- 786125

6:THE CIRCLE OFFICER
SADIYA REVENUE CIRCLE
SADIYA
DIST.- TINSUKIA
ASSAM
PIN- 78618

For the petitioner(s) : Mr. A.M. Khan, Advocate.
For the respondent(s) : Mr. R. Borpujari, Advocate.

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

O R D E R

28.08.2023

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 is that the brother of the Petitioner was killed by the extremists. The father of the Petitioner thereupon applied for grant of ex-gratia in terms with the Government Notification No.ABP.181/91/63 dated 08.04.1992 and Memo No.RR.69/95/19 dated 22.09.1997. Thereupon vide an order dated 24.04.2001, an amount of Rs.1,00,000/- was sanctioned in favour of the father of the Petitioner and subsequently the said amount was disbursed to the father of the Petitioner.

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the Assam Public Services (Appointment of Family Members of Persons Killed by Extremists/Terrorists) Rules, 1992 was repealed, vide the Government Notification dated 22.06.2004.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 ex-gratia 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 her brother, the father of the Petitioner 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 24.08.2021 issued Notice. It reveals from the record that an affidavit has been filed by the respondent no.3 i.e. the Commissioner & Secretary to the Government of Assam, Personnel (B) Department. Although nothing has been stated in the said affidavit pertaining to the specific entitlement of the Petitioner but various Notifications/Office Memorandum referred to hereinabove have been mentioned.

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 it transpires that one Mutur Shah had received an ex-gratia payment of Rs. 1,00,000/- on account of his son Late Ramesh Shah being killed by the extremists. There is no documents available in the writ petition to show the relation of the petitioner vis-a-vis Late Ramesh Shah except stating that Late Ramesh Shah is the brother of the petitioner. 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 next of kin of Late Ramesh Shah would be entitled to an additional amount of Rs.2,00,000. But the same would be subject to necessary verification as to whether the Petitioner herein is actually the next of kin of Late Ramesh Shah.

7. Accordingly, the instant writ petition therefore stands disposed off directing the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department to make necessary verifications through the Deputy Commissioner, Tinsukia as to whether the Petitioner herein is

entitled to the additional amount of Rs.2,00,000/- on account of the death of Late Ramesh Shah being the next of kin of Late Ramesh Shah. If it is found that the petitioner is the next of kin of Late Ramesh Shah, the said additional ex-gratia amount of Rs.2,00,000/- be disbursed to the Petitioner. 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 Next of Kin Certificate by the Petitioner to the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department, Guwahati.

JUDGE

Comparing Assistant