

GAHC010138702021



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

Case No. : WP(C)/4769/2021

PUJA HARIJAN AND 2 ORS
D/O LATE JWAHARLAL HARIJAN, R/O UTTAR BARSIRAL, P.S.-BARAMA,
P.O.-DHAMDHAMA, DIST-BAKSA, ASSAM, PIN-781349

2: MANIKA HARIJAN
D/O LATE JWAHARLAL HARIJAN
R/O UTTAR BARSIRAL
P.S.-BARAMA
P.O.-DHAMDHAMA
DIST-BAKSA
ASSAM
PIN-781349

3: BISHNU HARIJAN
S/O LATE JWAHARLAL HARIJAN
R/O UTTAR BARSIRAL
P.S.-BARAMA
P.O.-DHAMDHAMA
DIST-BAKSA
ASSAM
PIN-781349 (MINOR)

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY DIRECTOR GENERAL OF BORDER ROADS, SEEMA
SADAK BHAWAN, RING ROAD, DELHI CANTT., NEW DELHI, PIN-110010

2:THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS (PENSIONS)
ALLAHABAD
DRAUPADI GHAT
NEAR
SADAR BAZAR
PRAGYARAJ

UTTAR PRADESH
PIN-211014

3:THE PAY ACCOUNTS OFFICE (GREF)
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE (MOD)
CARE GREF CENTRE
AD WING
DIGHI CAMP
PUNE
PIN-411015

4:THE HEAD OFFICE OF (EIP) ARUNANIE
C/O 99 APO

5:THE HEAD OFFICE 23 BRIF
C/O 99 APO
PIN-930023

6:OFFICER COMMANDING 465 RMPL
DAPORIJO
ARUNACHAL PRADESH
77 RCC (GREF)
C/O 99 APO
PIN-930077

7:ASSISTANT EXECUTIVE ENGINEER (CIVIL)
OFFICE COMMANDING 55 RCC (GENERAL RESERVE ENGINEER FORCE)

8:ARATI RABI DAS SANJADI
P.O.-JANIADI
P.S.-HAZO
DIST- KAMRUP(R)
ASSAM
PIN-78110

Advocate for the Petitioner : MR. A R MEDHI

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 26-05-2023

Heard Mr. A.R. Medhi, the counsel appearing on behalf of the petitioner. Mr. K.K. Paresar, the learned C.G.C. appears for the Central Government and Mr. R. Konwar, the learned counsel appears for the respondent No. 8.

2. The petitioners herein are the son and daughters of Jawaharlal Harijan (since deceased). Late Jawaharlal Harijan expired on 28/6/2014 while on duty. Upon the death of the father of the petitioner No. 1, Puja Harijan was enjoying the family pension as that relevant point of time she was an unmarried daughter and was below 25 years.

3. Subsequent thereto, the respondent No. 8 who is the second wife of Late Jawaharlal Harijan approached the authority on 14th of January, 2021 claiming family pension. At that time the concerned respondent authorities stopped the family pension. It is also relevant to take note of that the petitioners herein along with the respondent No. 8 are also entitled to an amount of Rs. 10,58,698/- as has been admitted by the respondents in their affidavit filed on 28/10/2022 at paragraph No. 15.

3. It has been brought to the attention of this Court that Rule 54 (7) (b) of the Central Civil Service(Pension) Rules, 1972 stipulates that when the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of the family pension which her mother would have received if she had been alive at the time of the death of the Govt. servant or pensioner. In that view of the matter, the family pension has to be split on one half between the petitioner No. 2 and petitioner No. 3 till they are entitled to in terms with Rule 54 (6)

of the said Rules of 1972 and the remaining 50% the respondent No. 8 would be entitled to. In similar vein, the amount of Rs. 10,58,698/- has also to be divided equally between the petitioners herein and the respondent No. 8 in the ratio of 50:50.

4. Accordingly, this Court therefore disposes of the instant writ petition with a direction upon the respondent authorities, more particularly the respondent Nos. 2, 3 and 6 to disburse the family pension including the arrears in the family pension in the ratio of 50:50 between the petitioner Nos. 2 and 3 on one hand and the respondent No. 8 on the other hand. The said respondents are further directed to pay 50% of the amount of Rs.10,58,698/- to the petitioners and the remaining 50% of the said amount to the respondent No. 8. The same should be done within a period of two months from the date a certified copy of this order is served upon the respondent Nos. 2, 3 and 6.

JUDGE

Comparing Assistant