

GAHC010171542016



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

Case No. : Cont.Cas(C)/376/2016

SMTI. BAIJAYANTI BORDOLOI
W/O- LT. SOMET CH. BORDOLOI, VILL.- NEW DEURIGAON, P.O.-
DUMAIBAGIDAPARA, P.S.- KACHUA, DIST.- NAGAON, ASSAM, PIN- 782428.

VERSUS

RAJIV MEHRISHI and 4 ORS.
THE SECY. TO THE GOVT. OF INDIA, HOME DEPTT., NEW DELHI, PIN-
110001.

2:LT. GENERAL H.J.S. SACHDEV
THE DIRECTOR GENERAL OF POLICE
ASSAM RIFLES
SHILLONG
MEGHALAYA
PIN- 793001.

3:MANISH KATARIA
THE COMMANDANT
10TH ASSAM RIFLES
C/O- 99 APO
DIPHU
ASSAM
PIN- 782460
PRESENT ADDRESS- DIST.- PAPUMPARE
ITANAGAR
ARUNACHAL PRADESH
PIN- 791121.

4:JATIN MITTAL
COMMANDANT
10TH ASSAM RIFLES BATTALION

C/O 99 APO
DIST.- PAPUMPARE
ITANAGAR
ARUNACHAL PRADESH
PIN-791121.

5:LT. GENERAL P.C. NAIR
THE DIRECTOR GENERAL OF POLICE
ASSAM RIFLES SHILLONG
MEGHALAYA
PIN-793001

Advocate for the Petitioner : MR.R BARUAH

Advocate for the Respondent : MR. S K MEDHI (R-5)

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

19.05.2023

Heard Mr. R. M. Choudhury, learned counsel for the petitioner. Also heard Mr. S. K. Medhi, learned counsel for the respondents.

This Contempt Case has been filed alleging wilful disobedience of the order dated 03.12.2015 passed by the learned Single Judge in WP(C) No.5759/2010 containing the following directions :-

“23. In view of the above, both declaration of petitioner’s husband Samet Chandra Bordoloi as deserter and his dismissal from service vide order, dated 31.08 .2005, are set aside and quashed. He shall be treated to have been in service till his death on 19.08.2004. The period from 04.05.2000 till 19.08.2004 shall be regularized by the authority. Consequently, Smt. Baijayanti Bordoloi widow of Samet Chandra Bordoloi shall be entitled to all consequential benefits due to Late Samet Chandra Bordoloi. All such benefits shall be released to her within a period of three months from the date of receipt of a certified copy of this order.

24. For the pain and agony that a hapless widow had to undergo while pursuing the litigation for all these years, Court is of the view that cost of Rs.25,000/- should be paid to her by the respondents along with the service benefits within the period as indicated above.”

In terms of the aforesaid order of this Court, the respondent authorities have already released payment for amount of :-

- (a) Rs.10,27,915/- as arrears of family pension.
- (b) Rs.1,09,231/- as death gratuity, and
- (c) Rs.25,000/- towards cost awarded by the Court.

Notwithstanding the same, the petitioner is pursuing this contempt case on the ground that the respondents have not paid the salary for the period from 04.05.2000 till 19.08.2004. According to the petitioner, the expression

"consequential benefits" would also include salary for the aforesaid period.

Mr. Medhi has, however, submitted that by following the principle of "no work no pay", the petitioner would not be entitled to salary for the above period.

According to him, no such order for payment of salary has also been passed by the Court.

From a reading of the order dated 03.12.2015, I do not find any specific direction from the Court to pay salary for the period from 04.05.2000 to 19.08.2004. Whether the direction to regularise the service of the petitioner's husband for the above period would also include the direction to pay salary for the period is a matter which will require adjudication in view of the stand of "no work no pay" taken by the respondents.

In view of the above, it is apparent that the claim of the petitioner for payment of salary for the period from 04.05.2000 till 19.08.2004 has to be adjudicated by the Court in an appropriate proceeding filed by the petitioner.

As such, this Contempt Case is closed by granting liberty to the petitioner to file a separate writ petition agitating her grievance in respect of the aforesaid aspect, if so advised.

With the above observation, this contempt case stands closed.

JUDGE

Comparing Assistant