

GAHC010179072020



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

Case No. : WP(C)/5433/2020

ARPANA DEVI,
W/O. LT. CT/PEON BISWAJIT SHARMA FORCE NO. 097390016, R/O. UZAN
BAZAR, RAJ BHAWAN, GUWAHATI, KAMRUP (M), PIN-781004.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI-
110003.

2:THE DIRECTOR GENERAL

CENTRAL RESERVE POLICE FORCE
CENTRAL GOVT. OFFICE COMPLEX
LODHI ROAD
NEW DELHI-110003.

3:THE PAY AND ACCOUNTS OFFICER

CENTRAL RESERVE POLICE FORCE
THROUGH RESPONDENT NO.2.

4:THE INSPECTOR GENERAL OF POLICE

MANIPUR AND NAGALAND SECTOR
CENTRAL RESERVE POLICE FORCE
LANGJIN
IMPHAL-795140.

5:THE DY. INSPECTOR OF POLICE

CENTRAL RESERVE POLICE FORCE
GROUP CENTRE

GUWAHATI-781023.

6:STATE BANK OF INDIA
NALCO CORPORATE OFFICE BRANCH
NALCO BHAWAN
BHUBANESWAR
ORISSA
PIN-751013

Advocate for the Petitioner : MR. R MAZUMDAR

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

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 03-02-2023

Heard Mr. R. Mazumdar, learned counsel for the petitioner. Also heard Mr. K.Gogoi, learned counsel for the respondent Nos. 1 to 5 and Mr.W. Sarma, learned counsel for respondent No. 6.

2. The petitioner is the wife of deceased late CT/Peon Biswajit Sharma, Force No. 097990016 of Central Reserve Police Force. The grievance raised in the present petition is that she has not been granted any pensionary benefit and other terminal dues on the death of her husband. The petitioner contends that while the petitioner continued to submit representations before the authorities/employer of her husband for release of the pensionary and terminal benefits on the death of her husband, without any avail. Finally she preferred another representation on 2.3.2020 in this regard. Such representation was responded by the DIGP, Manipur and Nagaland Sector, CRPF informing her that respondent No. 6 i.e. the SBI, Bhubaneswar had informed

his office vide its communication dated 14.9.2020 that a loan account being A/C No. 38835793011 in the name of the deceased husband of the petitioner is still functional and accordingly, it was intimated that on the death of her husband the terminal death benefit is to be deposited in the salary account of the loanee. Thereafter the petitioner requested the said DIGP by her communication dated 10.8.2020 to deposit the final Terminal Dues and Risk fund in her bank account at Punjab National Bank Account No. 4652000100049933. However when nothing was done the petitioner had approached this court.

3. Mr. W. Sarma learned Standing Counsel , SBI submitted that husband of the petitioner had taken a personal loan which is still due and the employer has duly undertaken to repay the loan in the event of death of the loanee and took a stand that late husband of the petitioner authorised the bank to get the loan repaid through his benefits in the event of pre-mature death or on retirement from the service benefit .

4. It is also contended by Mr. Sarma that the employer has issued a certificate to that effect and therefore it is the contention of State Bank of India that all the terminal benefits is to be deposited in the Bank Account of the deceased so as to get the loan due repaid .

5. Mr. Gogoi, learned CGC relying on the affidavit filed by the Union of India submitted that the terminal Benefits, such as family pension, DCRG, CGGIS and LE benefit of the deceased employee had already been credited in the new bank account maintained in Punjab National Bank in the name of the petitioner. It is also contended by Mr. Gogoi that an amount of Rs. 50,000/- has already been paid to the petitioner from welfare fund immediately on the death of her husband to perform last rites.

6. Regarding the Risk Fund it is the stand of the employer that Chief Manager, State Bank of India, Nalco Corporate Office Branch, Bhubaneswar is insisting the DIGP(M&N) to deposit terminal dues in PMSP salary account of the deceased, which is active so as to recover the outstanding express loan amounting of Rs. 9,89,000/- with interest accrued thereon. It is also contended in the said affidavit that the purported service cum residential certificate submitted in the loan account of the deceased Biswajit Sarma is fake and forged and such certificate has not been issued in their office. In the aforesaid backdrop of facts, only dispute remains regarding the transfer of Final Risk Fund amounting to Rs 15,00,000 lac and CWF amounting to Rs.1,50,000/- which are yet to be released.

7. From the aforesaid stand, it is apparent that the money in question has not been released on the request of Chief Manager, State Bank of India, Nalco Corporate Office Branch, Bhubaneswar inasmuch as it is their stand that even after death of the Account holder, the said bank account is still alive. However this court in the factual background of the present case, is of the considered opinion that though the State Bank of India will have an option to recover any loan unpaid by the deceased Government servant by following due process permitted under the law, in the given stand of the Union of India, discussed hereinabove in the considered opinion, they are not entitled to request the employer to deposit the terminal benefit on the death of the loanee in account of the deceased after his death, for recovery of his loan inasmuch as the aforesaid Risk Fund benefit and CWF amount are rightful entitlement of the petitioner and minor kin of the deceased and such amount cannot be withheld only on the basis/request of Chief Manager, SBI more particularly in a situation where the Union of India itself admits that purported certificate issued was a

forged certificate.

8. In view of the aforesaid, this writ petition is allowed directing the respondent Union of India to release the risk fund final payment amounting to Rs. 15,00,000/- and CWF amounting to Rs.1,50,000/- within a period of six weeks in the Punjab National Bank account maintained by the petitioner.

9. It is needless to say that the petitioner shall be entitled to all other benefits on the death of her husband.

10. With the aforesaid observation this writ petition stands disposed of .

JUDGE

Comparing Assistant