

GAHC010182412018



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

Case No. : WP(C)/5710/2018

SMTI. JUNMONI BATHARI
W/O- LT ALICE BATHARI, R/O- P.W.D. COLONY, HAFLONG, P.O. HAFLONG,
PIN- 788819, DIST- DIMA HASAO, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, PUBLIC
WORKS DEPTT. (NATIONAL HIGHWAY AND BUILDING),
DISPUR, GHY-6, ASSAM

2:THE COMM. AND SECY.
PENSION AND PUBLIC GRIEVANCE
DISPUR,
GHY- 6, ASSAM

3:THE ACCOUNTANT GENERAL (A AND E)
BELTOLA,
GHY-29, ASSAM.

4:THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPTT.
N.H.DIVISION
KARIMGANJ
SUBHASH NAGAR ROAD
P.O. KARIMGANJ, DIST- KARIMGANJ
ASSAM, PIN- 788710

5:THE DY. COMMISSIONER
DIMA HASAO
P.O. HAFLONG, PIN- 788819
ASSAM.

6:SMTI. BILOMI BATHARI
2ND WIFE OF LT ALICE BATHARI
R/O- P.W.D. COLONY
HAFLONG
P.O. HAFLONG
PIN- 788819
DIST- DIMA HASAO, ASSAM

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

:: O R D E R ::

09.02.2023

[N. Kotiswar Singh, CJ(Acting)]

Heard Mr. P. Mahanta, learned counsel for the petitioner. Also heard Mr. R.K. Talukdar, learned Standing Counsel, AG for respondent No.3; Mr. P. Sarmah, learned Additional Senior Government Advocate, Assam for respondent No.5; Mr. A. Khanikar, learned Standing Counsel, NC Hills Autonomous Council and Mr. B.D. Konwar, learned Senior counsel assisted by Ms. M. Zomuanpuii, learned counsel for the respondent No.6.

2. The dispute in this petition is between two women [petitioner and the respondent No.6] both claiming to be the wedded wife of one Late Alice Bathari who was working as an Upper Division Assistant (UDA), P.W.D., in the office of the Executive Engineer, Public Works Department, N.H. Division, Karimganj.

3. In view of the agreement arrived at between the parties, it may not be necessary at all to go into the detail the background facts of the case. It will suffice to say that the parties have mutually agreed to burry all the differences between them as to who is the properly wedded wife or whether the separation or divorce of the writ petitioner was valid or not in the eyes of law, inasmuch as both of them have agreed that the retiral and other pensionary benefits in respect of the said Alice Bathari would be shared equally between the petitioner

and the respondent No.6.

4. Accordingly, in view of the aforesaid agreement arrived at between the petitioner and the respondent No.6, this petition is disposed of with the following directions.

(i) From the amounts already received or yet to be received by the respondent No.6 in respect of the retiral/terminal benefits arising out of the service by Late Alice Bathari, half of the same shall be given to the petitioner by respondent No.6.

(ii) As far as the monthly pension is concerned, the same though is received by the respondent No.6, she (respondent No.6) will give half of the same to the petitioner.

(iii) To ensure that the petitioner gets the half of the share of the monthly pension, and other retiral/terminal benefits already received by the respondent No.6 or, yet to be received, the petitioner will give her Bank Account Number to the respondent No.6 and the respondent No.6 shall inform the concerned Bank with whom the respondent No.6 is maintaining her account and through which account she (respondent No.6) is receiving the retiral/terminal and pensionary benefits so that the Bank on receipt of any amount in the Account of the respondent No.6 shall automatically transfer in favour of the petitioner half of the amounts received or receivable through the account which will be furnished by the petitioner to the respondent No.6.

(iv) Of course, the Bank will ensure that this direction is only in respect of such amount(s) received on account of the deceased Alice Bathari towards his terminal/pensionary benefits, not to any personal amount which may be deposited by the respondent No.6 on her account.

(v) It is made clear that it is the duty of the respondent No.6 also to inform the Bank as to the amount which have been received from the authorities towards the pensionary/terminal benefits arising out of the service of Late Alice Bathari to the Bank so that the Bank duly transfers the same to the account of the petitioner.

5. It has been submitted at the Bar that the respondent No.6 is presently maintaining regular Savings Bank Account in the State Bank of India, Haflong Branch (Code No.247), Main Road Haflong,[Account No.30393666412, IFSC Code SBIN0000247] and the petitioner is maintaining Bank Account at State Bank of India, Haflong Town Branch, [SB Account No.30494874879, IFSC Code SBIN0013252].

6. A copy of this order may be furnished to the Manager of the concerned Bank by both

the parties so that the aforesaid terms and conditions mentioned in the order, as agreed by the parties which form part of the order are duly complied with by the Bank as regards the money which was received or will be received by the respondent No.6, which will be transferred in equal proportion in the petitioner's Bank account.

7. It is also made clear that the aforesaid arrangement is purely in respect of the retiral/terminal and pensionary benefits in respect of the service of Alice Bathari and nothing to do with any other personal amount which may be deposited by the respondent No.6 or any other person.

8. It has been submitted that the deceased Alice Bathari had taken a loan of Rs.6,00,000/- (Rupees Six lakh only), Loan Account No.37104161242 [SBI Account No.10916759985 at Karimganj Main Branch, Karimganj] and now the amount due stands at Rs.(534865 + interest) which shall be deducted from the Bank.

However, it is made clear that the Bank without following due process of law cannot deduct any amount from the retiral benefits/terminal and pensionary benefits which may be received by the respondent No.6 in respect of any personal liability of said Alice Bathari towards the Bank.

9. While we pass this order, we place on record our appreciation for the efforts made by Mr. B.D. Konwar, learned Senior counsel for the respondent No.6 and P. Mahanta, learned counsel for the petitioner for resolving this long pending dispute between the two women in an amicable way.

10. With the above observations and directions, the present petition stands disposed of.

11. All interim orders passed earlier in any of the applications filed, shall stand merged with this final order passed today.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant