

GAHC010209442021



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

Case No. : WP(C)/6950/2021

MEHRUN BIBI
W/O LATE OMAR ALI @ UMAR ALI, R/O VILL-ROWMARI, P.S.-HAJO, DIST-
KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY EDUCATION
(SECONDARY) DEPARTMENT TO THE GOVT OF ASSAM, DISPUR, JANATA
BHAWAN, GUWAHATI-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
PANBAZAR
GUWAHATI-781001

4:THE INSPECTOR OF SCHOOLS
KAMRUP(RURAL) DISTRICT CIRCLE
AMINGAON
GUWAHATI-781031

5:THE DIRECTOR OF PENSION AND PUBLIC GRIEVANCES
DISPUR
GUWAHATI-781006

6:MISS HAJIBAN BIBI
DIVORCEE W/O LATE OMAR @ UMAR ALI

R/O VILL-AGIATHUR
P.O.-AMINGAON
DIST-KAMRUP
ASSAM
PIN-781039

7:MD. SAFIKUR RAHMAN
S/O MISS HAJIBAN BIBI
R/O VILL-AGIATHUR
P.O.-AMINGAON
DIST-KAMRUP
ASSAM
PIN-78103

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 06.11.2023

Heard Mr. R.Sarma, learned counsel for the petitioner. Also heard Mr. U.Sharma, learned standing counsel, Secondary Education Department for respondent Nos. 1, 2, 3 and 4; Ms. D.D. Barman, learned Addl. Senior Govt. Advocate for the respondent No.5 and Mr. S.J. Sarmah, learned counsel for the respondent Nos. 6 and 7.

2. Md. Omar Ali @ Umar Ali was appointed as Chowkidar of S.A.B M.E/High Madrassa on 23.02.1980. The said Umar Ali was found missing w.e.f 29.10.2004 and accordingly, the petitioner namely Mehrun Bibi who is the second wife of Umar Ali instituted a Title Suit No. 231/2013 before the learned Munsiff No.3 Kamrup(M) seeking a decree declaring that Umar Ali has been missing since

29.10.2004. Thereafter, the learned Munsiff No. 3 Kamrup(M) by an order dated 23.06.2014 passed a decree, declaring that as Umar Ali has been missing for more than 7(seven) years hence he is presumed to be death and the petitioner and the family members are entitled to receive the death and pensionary benefits of Umar Ali. Thereafter, there was a tussle between the petitioner and respondent No.6 who is the first wife of the said Umar Ali with regard to pensionary benefits of Umar Ali.

3. At this stage, learned counsel for the parties submits that a Deed of Compromise has been executed between the petitioner and the first wife of Umar Ali on 12th of August, 2022. The Deed of a Compromise reads as under:

“DEED OF COMPROMISE

This deed of compromise is executed on this 12th day August, 2022

-BETWEEN-

MEHRUN BIBI, aged about 52 years, wife of Late Omar Ali@Umar Ali, Resident of village- Rowmari, Police Station- Hajo, District- Kamrup, Assam, which expression shall where the subject or context allows or admits of be deemed to include her heirs, executors, administrators and representative of the First Party.

-AND-

MISS HAJIBAN BIBI, Divorce wife of Late Omar@Umar Ali, Resident of Village-Agiathur, P.O.-(g Amingaon, District- Kamrup, Assam, PIN-781039, which expression shall where the subject or context allows off admits of be deemed to include her heirs, executors, administrators and representative of the Second Party.

WHEREAS, the Second Party is in receipt of a copy of Writ Petition (C) No.6950/2021 from the Hon'ble Gauhati High Court and have gone through the contents thereunder and understood the same. The Second Party met the First Party and reached into conclusion with the following terms and conditions.

TERMS AND CONDITIONS

1. That Md. Safikur Rahman is the son of the Second Party and he is the respondent No.7 of W.P.(C)No.6950/2021 and he has also gone through the contents of the writ petition. The respondent No 6 and 7 of the writ petition being mother and son living together and this declaration is made by the Second Party however, consent is obtained from Md. Safikur Rahman.

2. That the First Party and the Second Party compromised that the pension of Omar Ali@, Umar Alit would be in equal share i.e.50% to the First Party and 50% to the Second Party.

3. That the pensionary benefits of Omar Ali@, Umar Ali where of total entitlements would be divided into 6 and the First Party would get 4 of the 6 part and the Second Party would get 2 of the 6 part.

14. That the First Party and the Second Party have been maintaining a good and cordial relationship and the same would be maintained in future too.

5. That the First Party and the Second Party made this compromise declaration with good health, open mind, without fear and duress and in presence of Md. Safikur Rahman, the respondent No.7 of the Writ Petition.

6. The First Party and the Second Party set and subscribe their respective hands and signature on the date, month and year written above in presence of the witnesses.

WITNESSES

1.

2.

3.

Signature of First Party.

Signature of Second Party"

4. The learned counsel for the parties submits that in view of the Deed of Compromise dated 12.08.2022, the pensionary benefits of the said Md. Omar Ali @ Umar Ali may be proportioned between the petitioner and the respondent No. 6 in terms of the terms and conditions Nos. 2 and 3 of the said Deed of Compromise dated 12.08.2022.

5. Ms. D.D. Barman, learned Addl. Senior Govt. Advocate submits that the pensionary benefits of the said Umar Ali may be proportioned between the petitioner and the respondent No.6 in terms of the Deed of Compromise dated 12.08.2022.

6. In view of the consensus between the parties, this writ petition is disposed of directing the appropriate authorities to prepare the pensionary benefits of the said Umar Ali in the name of the petitioner namely, Mehrun Bibi. Thereafter, the pensionary benefits shall be appropriately proportioned between the petitioner and the respondent No.6, namely, Hajiban Bibi in terms of the conditions No. 2 and 3 of the Deed of Compromise dated 12.08.2022.

7. The pensionary benefits of the said Md. Omar Ali @ Umar Ali shall be settled within a period of 3(three) months by the appropriate authorities from the date of receipt of a certified true copy of this Court's order.

8. With the aforesaid observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant