

GAHC010117592022



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

Case No. : WP(C)/4015/2022

TAMIYAN BIBI @ TOMIZAN BIBI
W/O- AKBOR ALI, RESIDENT OF VILL- LAKHIGANJ, P.O.- LAKHIGANJ
BAZAR, DIST- DHUBRI, ASSAM, PIN- 783345.

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE DIRECTOR GENERAL OF POLICE

ASSAM POLICE HEAD QUARTER
ULUBARI
GUWAHATI-07.

3:THE SUPERINTENDENT OF POLICE
NAGAON
DIST- NAGAON
ASSAM.

4:THE RESERVE OFFICER

NAGAON POLICE RESERVE.

5:MURSHIDA BEGUM
1ST WIFE OF - LATE TAIYOB ALI
VILL- LAKHIGANJ
PO- LAKHIGANJ BAZAR
DIST.- DHUBRI
PIN- 783345.

6:NARJI BEGUM
2ND WIFE OF - LATE TAIYOB ALI
VILL- LAKHIGANJ
PO- LAKHIGANJ BAZAR
DIST.- DHUBRI
PIN- 783345.

7:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
THE FINANCE DEPARTMENT

Advocate for the Petitioner : MR A R BHUYAN

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/7160/2022

NARJI BEGUM
W/O. LT. TAIYAB ALI
R/O. NAGAON
AMINPATY
THAGISUT PATH
P.O. NAGOAN
DIST. NAGAON
ASSAM.

VERSUS

THE STATE OF ASSAM AND 9 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPTT.
JANATA BHAWAN
DISPUR
GHY.-06.

2:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06.
3:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GHY.-07.
4:THE ADDL. DIRECTOR GENERAL OF POLICE

(M AND L)
ASSAM.
5:THE DEPUTY INSPECTOR GENERAL OF POLICE (ADMINISTRATION)

ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-07.
6:THE ACCOUNT GENERAL (A AND G)
ASSAM MAIDAMGAON
BELTOLA
GHY.-21.
7:THE SUPDT. OF POLICE

NAGAON SADAR
POLICE STATION NH 36 HAIBARGAON DECCAPATTY NAGAON-782001
ASSAM.
8:THE SUPDT. OF POLICE S.B (E)
GHY. ASSAM.
9:SENIOR ACCOUNTS OFFICER

OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29.
10:MURSHIDA BEGUM

W/O. LT. TAIYUB ALI
R/O. LAKHIGANJ VASANI GAON
DIST. DHUBRI
ASSAM.

Advocate for : MR. S BANIK
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 9 ORS.

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 14/06/2023

Heard Mr.A.R. Bhuyan, learned counsel for the writ petitioner in WP(C) 4015/2022 and Mr. S. Banik, learned counsel for the writ petitioner in WP(C) 7160/2022, who is also the respondent no. 6 in WP(C) 4015/2022. Mr. M. Islam, learned counsel has appeared for the respondent no. 5 in WP(C) 4015/2022 who is the respondent no. 10 in WP(C) 7160/2023. Mr. D. Deka, learned counsel appears on behalf of the respondent nos. 6 & 9 in WP(C) 7160/2022. Mr. S.S. Roy, learned Government Advocate, Assam, is present on behalf of the official respondents.

Both these writ petitions are inter-related and, therefore, are being taken up for disposal by this common order.

The son of the petitioner in WP(C) 4015/2022, viz. Md. Taiyob Ali was serving as a Constable in the Assam Police. While on duty, he had suffered a road accident and died on 15/09/2019. The respondent nos. 5 and 6 are the two surviving widows of late Taiyob Ali. Since Taiyob Ali was entitled to receive pension from the department, both the spouses (widows) had claimed share in the family pension giving rise to filing of WP(C) 7160/2022. Ultimately pursuant to a compromise formulae, it was decided that the family pension will be divided between the first wife and the second wife at the rate of 50 : 50. Consequently, both of them are receiving an amount of Rs. 17,000/- per month being 50% share of the family pension.

The writ petitioner in WP(C) 4015/2022 i.e. the mother of late Taiyob Ali, has approached this Court by filing WP(C) 4015/2022 by contending that she was also dependent on her son Taiyob Ali. As such, a part of the family pension be shared with her as well since she is unable to support/sustain herself.

During the course of the proceedings in these writ petitions, the learned counsel for both the widows as well as the mother of the deceased employee have obtained instruction and submit before this Court that their respective clients are willing to go for an amicable settlement in the matter. It has been agreed that 10% of the amount received by both the widows i.e. the respondent nos. 5 and 6 in WP(C) 4015/2022, can be shared with the petitioner i.e. the mother of the deceased employee. In other words, a sum of Rs. 1700/- x 2 per month can be paid to the mother of the deceased employee, viz. Mustt. Tamiyan Bibi from the family pension receivable by the two widows of the deceased employee.

Mr. S.S. Roy, learned Government Advocate, Assam, submits that if a direction is issued to that effect by this Court, the department will do the needful.

Since all the parties have agreed to the above arrangement and considering the facts and

circumstances of the cases in its entirety, these two writ petitions are being disposed of by providing as follows :-

- (i) The mother of the deceased employee, viz. Tamiyan Bibi will be entitled to receive 10% of the share of family pension receivable by each of the two widows of the deceased Taiyob Ali, subject to revision of pension from time to time.
- (ii) The respondent nos. 5 and 6 in WP(C) 4015/2022 to submit a joint application before the respondent no. 3 by enclosing a certified copy of this order with a request to pay 10% of the family pension to the mother of the deceased.
- (iii) The petitioner in WP(C) 4015/2022 will furnish necessary particulars of her bank account etc. for receiving the amount of 10% from the share of each of the two widows of Md. Taiyob Ali, directly to her bank account.

With the above arrangement, the dispute inter se between the parties regarding sharing of family pension, would stand resolved permanently.

In view of the above arrangement, the impugned order dated 05/09/2022 [impugned in WP(C) 7160/2022], whereby the entire amount of pension has been granted in favour of the first wife i.e. Murshida Begum, stands interfered with.

Both the writ petitions stand disposed of by providing that the family pension receivable on account of Md. Taiyob Ali shall henceforth be divided 50:50 between the first and second wife of the deceased, subject parting with 10% of the amount with the mother of the deceased.

JUDGE

sukhamay

Comparing Assistant