

GAHC010269462023



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

Case No. : WP(C)/7161/2023

NIRMALA RONGHANGPI
W/O- LATE BIDEN ENGTI,
R/O- VILLAGE KANGKI ENGTI GAON,
P.O- PALAKAMATI,
P.S- HOWRAGHAT,
DIST- KARBI ANGLONG, ASSAM, PIN-782481

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY, TO THE GOVT. OF ASSAM,
PERSONNEL (B) DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT (B) DEPARTMENT
DISPUR
GUWAHATI
PIN-781006

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI
PIN-781006

4:THE DEPUTY COMMISSIONER
KARBI ANGLONG
ASSAM
DISPUR
DIPHU
PIN-782460

5:THE SUPERINTENDENT OF POLICE
KARBI ANGLONG
ASSAM
DISPUR
DIPHU
PIN-78246

Advocate for the Petitioner : MR H TALUKDAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20-12-2023

Heard Mr. H. Talukdar, learned counsel for the petitioner; Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 1, 4 & 5; and Mr. P Handique learned counsel representing Mr. K. Konwar, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent no. 2; and Mr. B. Gogoi, learned Standing Counsel, Finance Department for the respondent no. 3.

2. The petitioner has claimed that she is the widow of one Late Biden Engti, an employee [a Gram Sewak] under the respondent Panchayat & Rural Development [P&RD] Department. The case projected by the petitioner, in brief, is that in connection with the Election to the Karbi Anglong Autonomous Council [KAAC] in the year 2001, the petitioner's husband was assigned duties at Bura Hanse Polling Station under Howraghat Police Station on 03.12.2001. While a team of officials who were assigned duties at Bura Hanse Police Station, located within the jurisdiction of Howraghat Police Station, was proceeding to the said Polling Station on 03.12.2001, they came under the attack of extremists at a place near Langlakso. In the said incident, the husband of the petitioner, who was a part of the team of polling officials, died of injuries sustained in the said incident of extremist violence. After death of the petitioner's husband, an investigation was caused and a Police Report was submitted by the Superintendent of Police, Karbi Anglong before the Deputy Commissioner, Karbi Anglong on 12.03.2002 stating *inter alia* that 8 [eight] persons were killed on 03.12.2001 as a result of

the attack by suspected U.P.D.S. extremists at Langlakso under Howraghat Police Station and the petitioner's husband, a Gram Sewak under Howraghat Development Block, was one of the persons who died in the said incident. The said Report was submitted in connection with Howraghat Police Station Case no. 168/2001 registered for the offences under Sections 302/307/326/353, Indian Penal Code [IPC] read with Section 25[1-b][a]/27 of the Arms Act, 1959 read with Section 3/5 of Explosive Substances Act, 1908 read with Section 3 of the Prevention of Damages to Public Property Act, 1984. After submission of the Report, the Deputy Commissioner, Karbi Anglong issued a Certificate vide no. KAPE-186/96/199 dated 06.06.2002 certifying that the petitioner's husband was killed by extremists on 03.12.2001 in the course of discharging his official duties. Thereafter, an amount of ₹ 1,00,000/- as *ex gratia* was sanctioned and disbursed to the petitioner as per the Policy framed by the State Government and notified vide Office Memorandum dated 09.08.1989 and Office Memorandum dated 22.09.1997 of the Finance Department and the Relief and Rehabilitation Department.

3. The present writ petition has been preferred seeking enhancement of the *ex gratia* amount from ₹ 1,00,000/- to ₹ 3,00,000/- in view of subsequent policy decision taken by the State Government and notified by a Notification dated 22.06.2004. By the Notification dated 22.06.2004, a decision has been taken to the effect that there would not be any recruitment in Government/Semi-Government jobs for the next of kin of a person killed by extremists/terrorists and who was earlier eligible under the provisions of the Assam Public Services [Appointment of family members of persons killed by extremists/terrorists] Rules, 1992. As the said Rules of 1992 had been repealed by a Notification of the State Government dated 22.06.2004, the amount of *ex gratia* payable to the next of kin of a person killed in extremists/terrorists violence had thereby, been enhanced from ₹ 1,00,000/- to ₹ 3,00,000/-.

4. The Assam Public Services [Appointment of Family Members of Persons Killed by Extremists/Terrorists] Rules, 1992 came to be repealed by a Notification no. ABB.121/92/Pt-V/135 dated 22.06.2004. By another Notification no. ABB.121/92/Pt-V/136 dated 22.06.2004, a new set of measures were formulated by the State Government to give relief to the families affected by extremists/terrorists violence. By the Notification no. ABB.121/92/Pt-V/136 dated

22.06.2004, the amount of *ex gratia*, payable to the next of kin of a person killed in extremists/terrorists violence, had been enhanced to ₹ 3,00,000/-. The Government of Assam in the Personnel Department by its Communication dated 05.08.2004 had intimated that the alternative measures formulated by the Government by the Notification dated 22.06.2004 would take effect from 22.06.2004 and the measures would be prospective. It was further informed that the cases which had been decided already as regards *ex gratia* payment, etc. before issuance of the said letter would not be opened again.

5. A Division Bench of this Court in a Judgment and Order dated 09.06.2010 passed in the writ petition, W.P.[C] 3355/2007 [**Dhaniswar Basumatary vs. State of Assam and others**] had held that the Next of Kins [NoKs] of the victims who had received the benefit of *ex gratia* grant of ₹ 1,00,000/- under the earlier scheme, would be entitled to the enhanced amount of *ex gratia* payment after adjustment of amount already paid to them.

6. After the Judgment of the Hon'ble Division Bench rendered on 09.06.2010 in the case titled **Dhaniswar Basumatary vs. State of Assam and others**, the Government of Assam in the Personnel [B] Department issued an Office Memorandum dated 29.07.2013. As per the said Office Memorandum, the State Government after detailed examination of the matter in the light of the Judgment dated 09.06.2010 rendered in **Dhaniswar Basumatary** [supra], decided to implement the same in an expeditious manner. Clause IV[v] of the Office Memorandum dated 29.07.2013 had mentioned that in case of persons killed in extremists violence prior to 2004 but whose relatives did not apply for any appointment prior to 22.06.2004 and had applied after 22.06.2004 and may or may not have received *ex gratia* grant under the Notification dated 22.06.2004 i.e. ₹ 3,00,000/-, they would be given appropriate *ex gratia* payment as per the Notification dated 22.06.2004 adjusting the amount already received, if any.

7. Reference can also be made to an order dated 01.02.2023 passed in W.P.[C] 4054/2021 [**Tutumoni Konwar vs. the State of Assam and 5 others**] whereby this Court in similar situation, had directed the petitioner, similarly situated like the present petitioner, to make proper application before the respondent authorities and upon such application being made, the

respondent authorities would make an enquiry as to whether any relative of the petitioner therein was killed in any extremists/terrorists violence prior to 22.06.2004 and in the event, upon such enquiry, the respondent authorities arrived at a conclusion that the Next of Kin [NoK] of the petitioner was so killed and the degree of relationship with the petitioner entitled the petitioner to receive payment of the required compensation, the respondent authorities shall pass an appropriate order as regards the enhanced *ex gratia* amount.

8. The petitioner has already submitted an application seeking enhancement of the *ex gratia* amount and the said application was considered and thereafter, forwarded by the office of the Deputy Commissioner to the Superintendent of Police, Karbi Anglong by a Communication bearing no. KGRR-16(C) Vol. III/Addl. Ex-Gratia/2023/449 dated 01.11.2023 to cause an enquiry and thereafter, to submit a detailed report as regards circumstances which led to the death of the petitioner's husband.

9. Taking note of the rationale behind the policies so formulated, this Court is of the considered view that the claim for the relief in the form of additional *ex gratia* grant to the petitioner made in this writ petition as the Next of Kin [NoK] of a deceased person killed in extremists violence, the facts of which are briefly narrated above, is to be considered and verified first at the end of the Deputy Commissioner, Karbi Anglong and after such verification and consideration by calling from the reports from the concerned Circle Officers and other concerned authorities and also from the petitioner, wherever found necessary, the proposal shall thereafter, be forwarded by the Deputy Commissioner along with the report to the respondent no. 2, for release of *ex gratia* grant in term of the Notification dated 22.06.2004; the Office Memorandum dated 29.07.2013; and the observations made in *Dhaniswar Basumatary* [supra]; if the petitioner is found entitled for the *ex gratia* amount of ₹ 3,00,000/-. The respondent no. 2 shall thereafter, release the quantum of additional *ex gratia* grant to the petitioner if she is found entitled, in terms of the notification dated 22.06.2004; the Office Memorandum dated 29.07.2013; and the observations made in *Dhaniswar Basumatary* [supra]; after adjustment of the amount of ₹ 1,00,000/- already paid for the death of the deceased person, mentioned above.

10. The entire exercise in respect of the case involved in this writ petition should be completed by the above respondent authorities as expeditiously as possible, preferably within a period of 3 [three] months from the date receipt of a certified copy of this order by the office of the respondent no. 4 i.e. the Deputy Commissioner, Karbi Anglong. The petitioner is directed to extend her cooperation during the process of verification likely to be undertaken to verify the claim by placing all the supporting materials at her disposal in respect of the claim.

11. With the observations made and the directions given above, this writ petition stands disposed of.

JUDGE

Comparing Assistant