

GAHC020004702021



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

Case No. : WP(C)/227/2021

SMTI. TEMSUBENLA
WIFE OF LATE T.K.GOPALAN, H.NO.569, LONGSATI MEPU, LONGSA VILLAGE,
MOKOKCHUNG-798601, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 5 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND,
NAGALAND KOHIMA
2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
HOME DEPARTMENT NAGALAND KOHIMA
3:THE DIRECTOR GENERAL OF POLICE POLICE
HEAD QUARTER NAGALAND KOHIMA
4:THE SUPERINTENDENT OF POLICE
MOKOKCHUNG NAGALAND
5:THE ACCOUNTANT GENERAL
NAGALAND - KOHIMA
6:THE TREASURY OFFICER
MOKOKCHUNG NAGALAND

Advocate for the Petitioner : SENTIYANGER

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 25-09-2023

Heard Ms. V. Therie, learned counsel for the petitioner and also heard Ms. Inaholi, learned State counsel for the respondent nos. 1 to 4 and Ms. K. Lily Swu, learned counsel for respondent No. 5.

By filing this petition, the petitioner has prayed for a direction to release the family pension and pensionary benefits in respect of her late husband's T. K. Gopalam, who was serving as a Supervisor, Police Radio, Mokokchung, Nagaland. The petitioner claims to be the second wife of late T. K. Gopalam who had married him after the dissolution of the marriage with his first wife. Her late husband expired on 24.12.1984 leaving behind the petitioner and their then minor daughter. The petitioner claims to have received family pension for about 6 to 10 months following the death of her husband's demise. Thereafter, she lost the copy of the Pension Book and had been unable to find the same till date. The petitioner also claims that she has been granted the succession certificate by the Deputy Commissioner, Mokokchung on 08.01.2016. The petitioner has approached the respondent authorities for family pension since she has lost the copy of the Pension Book however, same could not be materialized.

Being aggrieved, the petitioner filed the writ petition being WP(C)/109(K) of 2017 before this Court which was withdrawn on

28.03.2018 with liberty to file afresh. Thereafter, she filed the Declaratory Suit before the learned JMFC, Mokokchung being Declaratory Suit No. 04/2021 however the suit was rejected on 12.08.2021 on technical ground such as deficiency in court fees. Hence this petition for a direction to release the family pension and pensionary benefits arising out of the service of her late husband T. K. Gopalam.

Ms. V. Therie, learned counsel for the petitioner submits that there is no dispute that the petitioner is the legally wedded wife of late T. K. Gopalam who was serving as the Supervisor, Police Radio in the district of Mokokchung, Nagaland and her husband died leaving behind her and her daughter. It is also not disputed that the petitioner had received family pension for about 6 to 10 months following the death of her husband. The problem has arisen just after the pension book was lost from her possession.

After arguing the matter for some time, the learned counsel for the petitioner while producing a copy of the O.M. dated 13.07.2015 prayed for allowing her to approach the Deputy Commissioner of the concerned district as it provides that for any inclusion/change of nominee (which shall also include post-retiral spouse and children) for the purpose of family pension after the death of the pensioner (in respect of settled case) shall not be allowed without proper inquiry of the Deputy Commissioner of the concerned district.

The learned counsel for the State respondents as well as respondent no. 5, i.e, Accountant General have no objection to the prayer of the learned counsel for the petitioner. It is noticed that the

State respondents as well as the respondent no. 5 have filed their respective additional affidavits stating that the records have been weeded out as per the rules and the respondent no. 5 stated that unless the required documents are submitted by the State Government, the office of the Accountant General is handicapped to proceed with the matter.

It is settled law that the pension is not a bounty, therefore, the respondent authorities are expected to decide the matter expeditiously and such technicalities of office procedure should not be a cause for the petitioner to suffer for such family pension as well as pensionary benefits of her late husband T. K. Gopalam. Having considered the submissions and prayers made by the learned counsel for the parties, the petitioner is allowed to approach the concerned Deputy Commissioner for appropriate actions in terms of the rules as well as to redress the grievance of the petitioner expeditiously. It is made clear that State respondents and respondent no. 5/ Office of the Accountant General shall cooperate and support the petitioner for early solution of the matter and release the pension.

With the above observation and direction, this writ petition stands disposed of.

Sd/-
JUDGE

Comparing Assistant