



Serial No.31
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 393 of 2023

Date of Decision : 23.10.2024

Smti. Brejitha R. Marak

...Petitioner

-Versus-

1. The Inspector General of Police
Meghalaya, Shillong.
2. The Superintendent of Police
West Garo Hills, Tura.
3. The Deputy Superintendent of Police,
West Garo Hills, Tura.
4. The Accountant General (A&E)
Meghalaya, Shillong.
5. Smti. Tunika Das,
C/o. Ananda Das,
Gameri Mura,
P.O.Boko
Kamrup (Rural) District,
Assam – 781 135.

...Respondents



Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. C.C.T. Sangma, Adv.

For the Respondent(s) : Ms. N.G.Shylla, Sr. GA with
Mr. J.N.Rynjah, GA for R 1-3
Mr. K.Kharmawphlang, Adv. with
Ms. E.B.Passah, Adv. for R 4.
Mr. N.Chaudhury, Adv. for R 5.

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard learned counsel for the parties.

2. The prayer of the writ petitioner in the instant writ petition is for issuance of directions to the respondents to recall the sanction accorded to the respondent No. 5 with respect to the terminal or pensionary benefits, such as DCRG, leave salary and other benefits of one Late Bhim @ Bim Kumar Das who died in harness.

3. The petitioner is stated to be one of the four children of the deceased employee to whom their mother, namely, Late Willish R. Marak, was



married to. At the time of death of the said employee (father of the petitioner), he was married to respondent No. 5 to whom the sanction had been accorded.

4. Mr. C.C.T.Sangma, learned counsel for the petitioner has submitted that though objections had been filed before the respondents on 14-06-2022 with regard to the disbursal of the terminal benefits, the respondents immediately thereafter, by orders dated 17-06-2022 had sanctioned the leave salary, and by order dated 22-06-2022 had sanctioned the DCRG in favour of the respondent No. 5. He submits that the respondents therefore, had acted illegally and arbitrary in releasing the said amounts without the objection of the writ petitioner being taken into consideration.

5. Ms. N.G.Shylla, learned Sr. GA appearing for the respondents No. 1-3, in reply to the submissions, has placed reliance on the affidavit filed on behalf of the State respondents and has submitted that apart from there being no Succession Certificate in favour of the writ petitioner, by operation of Rule 41 (1) (a) of the Meghalaya Civil Service Pension Rules, 1983 as amended, the petitioner is no longer entitled to the pensionary or other terminal benefits of her father. She further submits that the respondents have duly considered the claims of the respondent No. 5, who had all the requisite documents in support of the claim and after thorough verification thereof of the testimonials and in accordance with Section 48



of the said Rules, provisional sanction of the terminal benefits was allowed in favour of the respondent No. 5. She therefore, submits there being no rights any longer vested on the writ petitioner, in view of this situation, this writ petition is liable to be dismissed.

6. Mr. N.Chaudhury, learned counsel appearing for the respondent No. 5, apart from endorsing the submissions made by the learned Sr. GA, has also submitted that by operation of the Rules itself, the petitioner will no longer to be entitled to the said pension. The learned counsel has then read out Rule 48 (1) (a) (ii) of the amended Rule 48, to show that the petitioner does not come within the definition of a person who will be eligible for family pension. He therefore prays that the writ petition be dismissed.

7. Considering the nature of the case and having the perused the materials on record, as well as the relevant provision, firstly, for the sake of convenience, the amended Rule 48 is reproduced herein below:

“48 (1) *For the purpose of this rule, family shall include the following relatives of the Government servants:-*

(a) **First Category:-**

(i) *Widow or widower, up to the date of death or re-marriage, whichever is earlier;*

(ii) *Son/Daughter including widowed daughter up to the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of twenty five years, whichever is earlier.*



Note 1:(ii) above will include legally adopted sons/daughters.

Note 2: Post-retiral spouses/children born after retirement:- The family pension is admissible to post-retiral spouses and children born/adopted legally after retirement.

(b) Second Category:-

(iii) Unmarried/widowed/divorced daughter, not covered by First Category above, up to the date of marriage/re-marriage or till the date she starts earning or up to the date of death, whichever is earlier; and,

(iv) Parents who were wholly dependent on the Government servant when he/she was alive. Family pension to dependent unmarried/widowed/divorced daughter/parents shall continue till the date of death.

Provided that the family pension to unmarried/widowed/divorced daughters in “Second Category” and dependent parents shall be payable only after the other eligible family members in “First Category” have ceased to be eligible to receive family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become ineligible for grant of family pension in that category.

Note:- The income criteria for dependency in respect of eligible “Second Category” family pensioner(s) shall be the minimum family pension including dearness allowance thereon.”



8. A perusal of the Rule as quoted hereinabove shows that the petitioner though undisputedly the first major daughter of the deceased employee will no longer be entitled to claim the terminal benefits of her father, inasmuch as, she will be barred by Rule 48 (1) (a) (ii), as she is already above 25 years old and is also married.

9. As such, in view of this clear definition with regard to the entitlement of the terminal benefits, the petitioner therefore cannot sustain her claim to be eligible for the terminal benefits of the deceased father.

10. Accordingly, on this short point, the writ petition is rejected and stands disposed of.

Judge