



Serial No.04
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 398 of 2023

Date of Order :09.07.2024

Smt. Tina S. Marak, aged about 63 years
W/o: Late Biren Chand Dutta,
(Constable No. 67811365)
Resident of Village – Wagesik,
P.O. & P.S. – Baghmara,
South Garo Hills District,
Meghalaya – 794102.

...Petitioner

-Versus-

1. The Union of India,
Represented by the Ministry of Defence,
Government of India,
South Block, Nirman Bhawan,
Chanakyapuri,
New Delhi – 110011.
2. The Director General of Border Security Force,
Block No. 10, CGO Complex, Lodhi Road,
Pragati Vihar,
New Delhi – 110003.
3. The Inspector General of Border Security Force,
Block No. 10, CGO Complex, Lodhi Road,
Pragati Vihar,
New Delhi – 110003.
4. The Senior Accounts Officer,
Pay and Account Division (Pension-III Section),
Director General of Border Security Force,
Pushpa Bhawan, Madangir,
New Delhi – 110062.



5. The Commandant, 138 Bn. B.S.F.,
Sonari, Dist. Coochbehar,
West Bengal, Pin – 736133.
6. The Deputy Inspector General,
Central Public Information Officer,
SHQ BSF, Dist. Coochbehar,
West Bengal, Pin – 736101.

...Respondents

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S.K.Hassan, Adv.

For the Respondent(s) : Dr. N.Mozika, DSGI with
Ms. A.Pradhan, Adv.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court with a prayer for a direction to the respondent authorities to furnish the details of correct pensionary benefits due to the legal heirs of the deceased employee, one Late Biren Chand Dutta, who was a Constable in the Border Security Force.



2. Dr. N.Mozika, learned DSGI assisted by Ms. A.Pradhan, learned counsel on behalf of the respondents in the course of the proceedings, has produced a communication dated 24th May, 2024 in addition to the affidavit which has also been filed on behalf of the respondents, which reveals that the Late Biren Chand Dutta, who was serving at 138 Bn. BSF had contracted three marriages, of which the writ petitioner herein admittedly was the first wife. Learned DSGI submits that in view of these circumstances and in the absence of any valid succession certificate being furnished before the respondent authorities, the debts and securities of the deceased Constable have not been disbursed.

3. A perusal of the communication dated 24th May, 2024, indicates that the third wife of the deceased Constable, namely one Smt. Kalpana Dutta has also filed a writ petition being No. 20395/2023 before the High Court of Calcutta. However, the letter reveals the tentative calculation of the retirement benefits which is however subject to final verification. For the sake of convenience, the entire letter dated 24th May, 2024 is reproduced herein below:

<i>“Tele: 03582-295794</i>	<i>Office of the Commandant</i>
<i>Email-comdt138bnbsf.nic.in</i>	<i>138 Bn BSF, Sonari</i>
	<i>Coochbehar (WB)</i>

No.Estt/138 Bn/WP(C) 398/2023/2024/5906 Dated, the 24 May 2024

To,
Dr.Nitesh Mozika
Senior Advocate



Deputy Solicitor General of India
 Hon'ble High Court of Meghalaya at Shillong
 Mob-9436335046/07005535705
email-niteshmozika@gmail.com

**WP(C) No. 398 of 2023 FILED BY SMT. TINA S MARAK
 V/S UOI AND OTHERS BEFORE HON'BLE HIGH
 COURT MEGHALAYA AT SHILLONG.**

Please refer to Hon'ble High Court Meghalaya High Court at Shillong order No. dtd. 07.05.2024.

2. *It is submitted that, Late Constable Biren Chand Dutta of this unit was expired on 25.08.2001. The family pension case of above deceased Constable was required to be settled immediately from the date of death but as per his record, deceased had declared different NOKs on even dates. Third wife of Late Constable B C Dutta i.e. Smt Kalpana Dutta has also filed a writ petition No. 20395/2023 before the Hon'ble High Court of Calcutta which is pending for finalization.*

3. *Since, two wives of deceased Constable are claiming family pension and no succession certificate received till the date, the Family pension case not yet been settled.*

4. *In view of the above following points are required to be kept in mind while calculating pension benefits of above deceased:-*

(i) ***Third wife of Late Constable B C Dutta i.e. Smt Kalpana Dutta has also filed a writ petition No. 20395/2023 before the Hon'ble High Court of Calcutta which is pending for finalization.***

(ii) ***Calculation of pensionary benefits of above deceased is tentative, subject to final verification/bill passed from Pay & Accounts Division, Border Security Force, New Delhi.***

5. *However, tentative calculation of retirement benefits as asked vide Hon'ble Court Order under reference is as under subject to final verification/bill passed from Pay & Accounts Division, Border Security Force, New Delhi:-*



<i>SPBY</i>	<i>4,00,000/-</i>	<i>Amount is lying with this Battalion HQ.</i>
<i>Death Gratuity</i>	<i>1,92,852/-</i>	<i>The amount will be claimed from Pay & Accounts Division, Border Security Force, New Delhi after receipt of Succession certificate from NOK.</i>
<i>CGEGIS</i>	<i>10,000/-</i>	
<i>Leave Encashment</i>	<i>13,831/-</i>	
<i>Financial Assistance</i>	<i>5,000/-</i>	<i>Amount will be paid only after receipt of Succession certification from NOK.</i>
<i>Pension arrear</i>	<i>19,76,474/-</i>	<i>Family Pension case is required to be revised two times i.e. as per 6th CPC and 7th CPC. Besides this, family pension is also claimed by two wives of above deceased Constable. Therefore, this pension arrear amount is tentative, however, the exact amount of pension arrear will only be finalized after final verification from Pay & Accounts Division, Border Security Force, New Delhi.</i>

Sd/-
[Devender Pundir] 21C
Offg Commandant
138 Bn BSF."

4. As the prayer of the writ petitioner is limited only to the disclosure of the amount, by the said communication, the same having been given by the respondents, nothing remains for consideration in this writ petition. However, in view of the vexed nature of the case, it is understood that the



respondent authorities before disbursing any amount, shall ensure that proper verification and valid certificates are obtained by the concerned parties.

5. With the above direction, matter accordingly stands disposed of.
6. Copy of the communication dated 24th May 2024 is taken on board and made part of the record.

Judge