

GAHC010069252022



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

Case No. : WP(C)/2639/2022

HEMALATA DAS
W/O LATE ANIL DAS
RESIDENT OF VILLAGE DHARMAPUR, PO AND PS ABHAYAPURI, DIST
BONGAIGAON, ASSAM 783384

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT OF
ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR GUWAHATI
781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON
ASSAM

4:THE DEPUTY INSPECTOR OF SCHOOLS
NORTH SALMARA AT ABHAYAPUR
DIST BONGAIGAON
ASSAM 783383

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
SRIJAGRAM EDUCATION BLOCK
PO SRIJAGRAM
PS ABHAYAPURI
DIST BONGAIGAON
ASSAM 783383

6:THE TREASURY OFFICER
BONGAIGAON
ASSAM 783383

7:SMTI MRIDULA KALITA
W/O LATE ARUP DAS
D/O LATE NAGEN KALITA
RESIDENT OF VILLAGE AND PO DUBAPARA
PS AND DIST GOALPARA
ASSAM 78310

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 27/03/2024

Heard Mr. M.U. Mahmud, learned counsel for the writ petitioner. Also heard Mr. D. Das, learned counsel for the respondent no. 7. I have also heard Mr.N.J. Khataniar, learned Standing Counsel, Elementary Education Department, appearing for the respondent nos. 1 to 5 and Mr. P. Nayak, learned Standing Counsel, Finance Department, Assam, representing the respondent no. 6.

The petitioner herein is the mother of late Arup Das, who was serving as a teacher at Deohati M.P. School. Arup Das died a pre-mature death by committing suicide, leaving behind his widow i.e. the respondent no. 7 and a minor son. After the death of Arup Das, respondent no. 7 being the widow of the deceased employee had received an amount of Rs. 14 lakhs as service benefits accruing in favour of Arup Das. The petitioner has approached this Court by filing this writ petition by contending that being the mother of the deceased and considering the fact that her son was driven to commit suicide on being provoked by the respondent no. 7, she would be entitled to 50% of the amount paid to the respondent no. 7.

It is not in dispute that the respondent no. 7 is the widow of the deceased employee and she is having to look after her minor son. It is also not in dispute that the petitioner is presently staying with her other sons and she is also receiving family pension on account of her deceased husband. Notwithstanding the same, the writ petitioner is claiming a share in the benefits received by the

respondent no. 7 after the death of her husband.

Taking note of the peculiar facts and circumstances of the case, this Court had passed order dated 24/01/2024 requesting the learned counsel for the contesting parties to obtain necessary instruction as to whether the matter can be resolved amicably. Accordingly, Mr. D. Das, learned counsel for the respondent no. 7 has obtained instructions and submits that although his client will have to look after her minor son and take care of his health and educational requirements until he attains majority for which the entire sum of money will be required, yet, so as to assuage the sentiments of the petitioner, she is willing to part with a sum of Rs. 1.5 lakhs from the amount received by her on the account of her deceased husband.

Mr. Mahmud, learned counsel for the petitioner submits that the amount will be too meager and has prayed for enhancing the amount to Rs. 5 lakhs. The learned counsel for the petitioner has, however, submitted in his usual fairness that the petitioner is receiving family pension.

After considering the submissions made at the Bar and by balancing the equities, this Court is of the opinion that without going into the technical issues raised by the parties in this case, ends of justice will be met, if the respondent no. 7 is directed to part with a sum of Rs. 1.5 lakhs, as one time payment, to be made to the petitioner, so as to give her some comfort for the loss of her earning son.

The learned departmental counsel as well as the learned Standing Counsel, Finance Department, Assam, have also raised no objection to such an order.

In view of the above, this writ petition stands disposed of by providing that the respondent no. 7 will pay a sum of Rs. 1.5 lakhs, to the writ petitioner, by a banker's cheque to be handed over to the petitioner within a period of 60(sixty) days from today. Upon receipt of the said amount, the petitioner shall not have any further claim against the respondent no. 7 or her minor son.

With the above observations, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant