

GAHC010100542018



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

Case No. : WP(C)/3466/2018 In
WP(C)/3460/2018 (D/O)

DAMAYANTI DAS
W/O- LT PARAMESWAR DAS, EX-CONSTABLE (BORDER), EX-S, R/O- VILL-
KALITAPARA, P.O. BHALUKADOBA, P.S. SORBHOG, DIST- BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME DEPTT., DISPUR-781006

2:THE STATE OF ASSAM
REP. BY ITS COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPTT.
BLOCK-D
2ND FLOOR
JANATA BHAWAN (CIVIL)
DISPUR
GHY-6

3:THE STATE OF ASSAM
REP. BY ITS PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT. (ESTT-A)
DISPUR
GHY-6

4:THE ADDL. DIRECTOR GENERAL OF POLICE (BORDER)
HQ (B)
ASSAM
BHANGAGARH
SRIMANTAPUR

GHY-32

5:THE SUPERINTENDENT OF POLICE (BORDER)
ASSAM
SRIMANTAPUR
P.O. BHANGAGARH
GHY-32

6:THE DY. COMMISSIONER OF POLICE (BORDER)
PANBAZAR
GHY-1

7:THE ACCOUNTANT GENERAL
ASSAM
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GHY-29

8:THE DIRECTOR
DIRECTORATE OF PENSION
OFFICE OF THE DIRECTOR OF PENSION
ASSAM HOUSEFED COMPLEX
DISPUR
GHY-

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

24.04.2024.

Heard Shri H Gupta, learned counsel for the petitioner and Shri D Bora, learned State Counsel, Assam. Also heard Shri P Nayak, learned Standing Counsel, Finance Department, Assam as well as Shri C Boruah, learned Standing Counsel, Accountant General, Assam.

2. The instant writ petition has been filed with two prayers. The first prayer pertains to a claim for family pension and the second is with regard to the pension in lieu of compassionate appointment in terms of the Office Memorandum dated 14.09.2017.

3. It is the case of the petitioner that her husband, Parameswar Das, who was working as a Constable (B) in the Assam Police, had died on 09.04.2017 whereafter the issue regarding payment of family pension and also the compassionate pension in lieu of appointment on compassionate ground were pending.

4. This Court, however, has been apprised that during the pendency of this case, the family pension has been released to the petitioner which has also been received. In this regard Shri Borua, learned Standing Counsel, AG has placed on record a copy of the communication dated 26.06.2020 towards release of the family pension.

5. With regard to the other aspect of the matter, the attention of this Court has been drawn to the notification dated 14.09.2017, more particularly, Clause 5.3 thereof which reads as follows:

“5.3. Where the employee dies before superannuation, the family pension equal to 100% of the last pay drawn by the deceased employee be paid for a period up to the date of deemed superannuation of the deceased employee i.e., the date on which the employee would have superannuated had he been alive. This

would compensate the loss of family income to a large extent and fulfill the requirement of compassionate conditions arising out of the death of the serving employee."

6. Shri Gupta, learned counsel for the petitioner by referring to the clarificatory clause 5.11 submits that the benefit of the said notification would be applicable to the petitioner.

7. As regards the aforesaid claim, the learned counsel for the respondents by referring to the written instructions dated 16.03.2024 and the annexures thereto has submitted that from the said annexure, it appears that even the compassionate family pension has been paid.

8. However, Shri Gupta, learned counsel for the petitioner is not equipped with such instructions.

9. This Court is of the opinion that to apply the aforesaid clause, an incumbent is required to make appropriate representation with necessary testimonials.

10. Accordingly, the writ petition is closed by directing that in case, the compassionate family pension is not paid to the petitioner, the petitioner would file a proper application under the aforesaid clause of the notification dated 14.09.2019 claiming for compassionate pension. The said representation/application is directed to be considered and appropriate action be taken as expeditiously as possible and in any case, within a period of 4

months from the date of receipt of such application.

11. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant