

GAHC010112712021



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

Case No. : WP(C)/3719/2021

LACHIMA BEGUM
W/O LATE RUSTAM ALI, VILL. JAPORIGOG, KRISHNA NAGAR, P.O.
JAPORIGOG (DISPUR), P.S. DISPUR, GUWAHATI, KAMRUP (M), ASSAM, PIN
78037

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECY., FORESTS DEPTT.,
DISPUR, GUWAHATI, ASSAM.

2:THE COMMISSIONER AND SECY.

GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPTT.
DISPUR
GUWAHATI
ASSAM.

3:THE ACCOUNTANT GENERAL ANE

ASSAM
BELTOLA
GUWAHATI 28

4:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE

ASSAM
REHABARI
GUWAHATI-8

5:THE CONSERVATOR OF FORESTS

NORTHERN ASSAM CIRCLE
TEZPUR

6:ACHIA KHATUN

W/O LATE RUTAM ALI
VILL. BALABARI
P.O. BALABARI
P.S. DHULA
DIST. DARRANG
PIN 78414

Advocate for the Petitioner : MR. I ALAM, MS. R R BORAH,MR. T SK

Advocate for the Respondent : SC, FOREST, MR. RASHIDUL ISLAM (R-6),MR. R K TALUKDAR,GA, ASSAM,SC, PENSION,SC, AG

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 25-10-2024

Heard Mr. I. Alam, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned Standing Counsel, Forest Department for respondent nos. 1, 4 & 5 and Mr. R.K. Talukdar, learned counsel for respondent No. 2.

2. Mr. I. Alam, learned counsel for the petitioner submits that the petitioner and the respondent no. 6 who is the first wife have settled the matter mutually by entering into a Deed of Mutual Agreement on 04.11.2022. Therefore, he prays that the matter may be closed with a direction to the Respondent authorities to release the Family Pension to both the petitioner and the respondent no. 6 in equal proportion.

3. The learned counsel for the respondents have also fairly submitted that the

petitioner and the respondent no. 6 have mutually settled the matter.

4. The petitioner has filed this writ petition for a direction to the respondent authorities to release the Family Pension to her. It is noticed that the petitioner is the second wife of Late Rustam Ali and the respondent no. 6 is the first wife. The Family Pension is being paid to the respondent no. 6 who is the first wife. The petitioner and the respondent no. 6 have entered into a Deed of Mutual Agreement on 04.11.2022 whereby they have agreed that all the necessary particulars were mentioned including the names of both the wives, namely, the petitioner and the respondent No. 6 is to be included in the service book of their late husband and nomination paper. However due to certain inadvertent mistake the name of the petitioner was not recorded in the nomination paper.

5. The Late husband of the petitioner and respondent no. 6 i.e. Rustam Ali had approached this Court for a direction to include the name of the second wife (petitioner herein) in the Pension Nomination Papers along with the first wife. The Late husband was working since 1960 as a Superintendent in the office of the Conservator of Forest, Northern Assam Circle, Tezpur and he had retired from service on 31.03.1995. The writ petition in WP(C) No. 2637/2013 was disposed of by this Court by order dated 23.04.2015 whereby the Principal Chief Conservator Forest, Govt. of Assam was directed to consider the representation filed on 27.11.2012 by the Late husband of the petitioner and respondent no. 6. It was further directed that the petitioner and respondent No. 6 be produced before the concerned authority so as to ascertain the veracity of the claim of the two wives professing the Mohammedan faith. After the enquiry if it is satisfied, the name of the petitioner herein (second wife) shall be included in the nomination paper and submit the same to the Office of the Accountant General, Assam.

6. It is submitted by the learned counsel for the petitioner that the name of the petitioner although she being legally second wife as permissible by Mohammedan faith has not been included despite the direction of this Court.

7. Having considered the submissions of the learned counsel for the parties and having perused the Deed of Mutual Agreement dated 04.11.2022 as well as the order of this Court passed in WP(C) 2637 of 2013 dated 23.04.2015, I deem it appropriate to dispose of the matter with a direction to the respondent authorities to include the name of the petitioner in addition to the respondent No. 6 in the relevant service papers for family pension. Accordingly, it is directed that respondent authorities shall include the name of the petitioner Lachima Begum in the relevant service paper and send it to the Accountant General, Assam. Thereafter, the respondents are directed to pay the Family Pension to the petitioner and the respondent no. 6 in equal proportion in accordance with rules. The entire exercise shall be carried out within 2 months from today.

8. The writ petition stands disposed of in terms of above.

JUDGE

Comparing Assistant