

GAHC010127122021



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

Case No. : WP(C)/4087/2021

SANKAR KUMAR DAS
S/O LATE MUNINDRA CHANDRA DAS @ MUNIN CH. DAS (FATHER) AND
LATE LABANYA DAS (MOTHER) RESIDENT OF FAUZDARIPATTY KIRTAN
GHAR ROAD, PO NAGAON, PS NAGAON SADAR, DIST NAGAON, ASSAM
782001, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF DAIRY DEVELOPMENT DISPUR GUWAHATI
06

2:THE DIRECTOR
O/O THE DIRECTORATE OF DIARY DEVELOPMENT
GOVT. OF ASSAM
KHANAPARA
GUWAHATI 22
ASSAM

3:THE DIARY DEVELOPMENT OFFICER

O/O THE DIARY DEVELOPMENT OFFICER

BIROH BEBEJIA
PO SENSUA
DIST NAGAON
ASSAM
782002

4:MISS PARMITA DAS

D/O LATE MUNINDRA CHANDRA DAS @ MUNIN CH. DAS (FATHER) AND
LATE LABANYA DAS (MOTHER) RESIDENT OF FAUZDARIPATTY KIRTAN
GHAR ROAD
PO NAGAON
PS NAGAON SADAR
DIST NAGAON
ASSAM 782001
ASSA

Advocate for the Petitioner : MR. J KALITA, MR B HAZARIKA

Advocate for the Respondent : GA, ASSAM, MR P K BORA (R-4),MR H MAZUMDER (R-4),MR.
N BORAH (R-4)

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 03.10.2024

Heard Mr. J. Kalita, learned counsel for the petitioner. Also heard Mr. N. Borah, learned counsel for the respondent no. 4 and Mr. J. K. Goswami, learned Additional Senior Government Advocate for the State respondent.

2. By way of this writ petition, filed under Article 226 of the Constitution of India, the petitioner is seeking direction to the respondent nos. 2 and 3 to stop the process to release pensionary benefits in the name of the respondent no. 4 until disposal of the Misc. Case (Succession) No.10/2020 pending adjudication before the Hon'ble District and Session Judge, Nagaon.

3. The facts of the case is that the petitioner's mother Late Labanya Das who was working as C.P.A. at Dairy Development Office, Biroh Bebejia, District Nagaon, Assam died on 01.12.2019, leaving behind

her son (present petitioner) and her daughter (respondent no. 4).

4. Thereafter on 31.12.2019, the office of Diary Development Officer, Nagaon, issued letter to the petitioner and respondent no. 4 whereby they both were directed to submit necessary documents such as Bank Account details, Next of Kin certificate etc. for the purpose of processing and availing the retirement benefits as legal heirs of the deceased mother.

5. Upon receiving the said letter, the petitioner though requested the respondent no. 4 to avail the retirement benefits available to them in equal portion, the respondent no. 4 having not given appropriate response, the petitioner filed an application before the District Judge, Nagaon for grant of a succession certificate being Misc. (Succ) Case No.10/2020.

6. Thereafter the petitioner also filed an objection before the Directorate of Diary Development by letter dated 16.02.2021 with a request to stop the process of sanction of the death benefits and family pension to the respondent no. 4 till adjudication of the aforesaid succession case.

7. Thereafter on 23.02.2021, a letter has been issued from the office of the Diary Development Officer, Nagaon, to both the petitioner and respondent no. 4 once again requesting them to submit the necessary papers for processing the retirement benefits.

8. Thereafter on 03.07.2021, the respondent no. 3 submitted documents of respondent no.4 for processing compassionate family

pension without waiting for the disposal of the succession case.

9. Aggrieved by the aforesaid the present writ petition has been filed.

10. Heard the learned counsel for the parties and perused the material available on record.

11. It appears that this Court on 24.08.2021, when the writ petition was moved after hearing the prayer for interim relief was pleased to restrain the respondent no. 1, 2 and 3 from releasing and/or distributing compassionate family pension amount to any of the legal heirs of the deceased mother until further orders of the Court.

12. Pursuant to the aforesaid interim order upon an interlocutory application i.e. I.A.(C) No.2267/2021 being filed by the respondent no. 4, this Court after hearing both the parties was pleased to modify the aforesaid interim order dated 24.08.2021 by giving liberty to the respondent authorities to release the family pension in favor of the respondent no. 4 pursuant to order dated 05.08.2021 issued by the Joint Secretary to the Government of Assam addressed to the Accountant General (A&E) Assam. This court was further pleased to clarify that accept the family pension other pensionary benefit of the petitioner and respondent no. 4 shall not be released to either to the writ petitioner or to the respondent no. 4.

13. Mr. N. Borah, learned counsel for the respondent no. 4 submits that in view of the aforesaid order, the respondent no. 4 has been receiving the family pension.

14. It is further submitted at the bar that the said succession case is still pending adjudication before the District and Session Judge, Nagaon.

15. In view of the aforesaid, this Court is of the view that this writ petition in the interest of justice can be disposed of with a direction to the respondent not to release the other pensionary benefits of Late Labanya Das pending adjudication of Misc. Case (Succession) No.10/2020 before the District and Session Judge, Nagaon to both the contesting parties.

16. Ordered accordingly.

17. It is needless to be clarified that upon the adjudication of the said succession case being concluded, the respondent authorities shall be at liberty to release the other pensionary benefits to the contesting parties in terms of the succession certificate granted by the Succession Court in accordance with law.

18. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant