

GAHC010131822013



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

**Case No. : WP(C)/5833/2013**

SMTI JAYANTI KALITA  
W/O- SRI MAHENDRA KALITA, VILL.- KENDUKUCHI, P.O.- BARKHANJAN,  
P.S. and DIST.- NALBARI, ASSAM.

VERSUS

THE UNION OF INDIA and 2 ORS  
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,  
SHASTRI BHAWAN, NEW DELHI.

2:THE DY. INSPECTOR GENERAL OF POLICE  
GROUP CENTRE CENTRAL RESERVE POLICE FORCE GUWAHATI.

3:THE DY. INSPECTOR GENERAL OF POLICE  
CENTRAL RESERVE POLICE FORCE RESERVE ATCGC ALLAHBAD

**Advocate for the Petitioner : MS. A AHMED**  
**Advocate for the Respondent : MR.C K S BARUAH, C.G.C.**

**BEFORE**  
**HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

**ORDER**

**Date : 22.03.2024**

Heard Ms. D. Buragohain, learned counsel for the petitioner. Also heard Mr. C. K. S. Baruah, learned CGC, appearing on behalf of the respondents; and Mr. D. Borah, learned counsel who has assisted the Court as an amicus curiae in the matter.

**2.** The petitioner by way of instituting the present writ petition, has presented a challenge to a communication, dated 22.06.2013, by which her claim for the dependent family pension in respect of the services rendered by her son who had died in harness, came to be rejected.

**3.** The son of the petitioner late Munindra Kalita was appointed as a constable/GD in the Central Reserve Police Force on 28.12.2010. The late son of the petitioner, had nominated the petitioner, herein, who is his mother, as his nominee in his service records for the benefits as would accrue on account of the services being rendered by him.

**4.** It is to be noted that the petitioner's son was unmarried and it is the contention of the petitioner that she was totally dependent on her son for her livelihood in-as-much as her elder son Shri Anil Kalita was living separately with his wife and children along with her husband on account of some family disputes.

**5.** The son of the petitioner was sent to Allahabad for training w.e.f. 06.06.2011. While he was undergoing the said training, on 17.06.2011, he felt unconscious and was immediately hospitalized at Jeevan Jyoti Hospital, Allahabad, but on 18.06.2011, he died in the Hospital itself and thereafter, his body was sent to the house of the petitioner and the final rites were performed.

**6.** The petitioner after the death of her son, submitted an application before the respondent authorities praying for release of her due family pension on

account of the services rendered by her deceased son. The respondent authorities vide communication, dated 07.09.2012, required the petitioner, for the purpose of processing the dependent family pension proposal, to furnish a police verification report about her marital status and details of the family members in respect of her deceased son i.e. late Munindra Kalita along with her bank details.

**7.** In course of processing of the matter; the respondent authorities vide a communication, dated 13.09.2012, required the Superintendent of Police, Nalbari, to furnish a verification report about the marital status and details of the family members of the deceased Munindra Kalita. In the said communication, it was noted that the son of the petitioner was unmarried and the petitioner was entitled to the admissible dues. However, vide the communication, dated 22.06.2013, holding that the husband of the petitioner was in a government job with an annual income of Rs. 1,22,000/-; it was held that the petitioner was not entitled to the dependent family pension. Being aggrieved, the present proceedings has been instituted by the petitioner.

**8.** Ms. Buragohain, learned counsel for the petitioner, has submitted that case of the petitioner for grant of dependent family pension, was rejected by the respondent authorities without there being a consideration of the relevant factors. It is stated that the income of the petitioner was computed to be Rs. 6,000/- per year by the respondent authorities, however, by reckoning the income of her husband, it was held that the petitioner was not entitled to the dependent family pension. It is contended by the learned counsel for the petitioner that the husband of the petitioner was living separately since before

and the petitioner was not dependent on her husband rather she was dependent on her deceased son late Munindra Kalita for her livelihood.

**9.** Mr. Borah, learned amicus curiae, has brought to the notice of this Court that the provisions of the Central Civil Services(Pension) Rules, 1972, was amended in the year 2011 and it was provided that in the event, a government servant dies before completion of one year of continuous service; the family of the deceased employee, shall be entitled to family pension under the Family Pension scheme of the Central Government Employees, 1964, and the amount for which shall be determined at a uniform rate of 30% of basic pay subject to minimum of Rs. 3,500/- per mension and a maximum of Rs. 27,000/- per mension.

**10.** Mr. Baruah, learned CGC, appearing for the respondents; has submitted that the inquiry as made, revealed that the annual income of the husband of the petitioner being Rs. 1,22,000/- per year as per the declaration made by him and the petitioner being found to be dependent on her husband; the dependent family pension on account of the services rendered by the deceased son of the petitioner, was not authorized to the petitioner, herein.

**11.** It was further contended by Mr. Baruah, learned CGC, that the death gratuity amount as payable to the next of the kin of the deceased, was released to the family of the deceased employee in terms of the provisions existing in this connection.

**12.** I have heard the learned counsels appearing for the parties and also considered the materials made available on record.

**13.** The provisions of Rule 26(d) of the Central Reserve Police Force Rules, 1995, mandates that the period of training undergone by a recruit, shall be treated as duty for the purpose of FR(9)(6)(b)(i). It is also not in dispute that in respect of an unmarried Government employee; the mother of such an employee is entitled to receive pension and pensionary benefits. In the case on hand; late Munindra Kalita i.e. the son of the petitioner, herein, was admittedly unmarried.

**14.** In that view of the matter; the petitioner being otherwise eligible to receive the pension and pensionary benefits, her case for such pension and pensionary benefits could not have been rejected drawing a presumed dependency on her husband when admittedly such dependency was disputed by the petitioner, herein. The respondent authorities while issuing the order, dated 22.06.2013, rejecting the claim of the petitioner for the dependent family pension, has proceeded in the manner, holding that the petitioner was being looked after by her husband which fact was disputed by the petitioner, herein.

**15.** The processing as made in the case for release of the dependent family pension to the petitioner, herein, reflects that the petitioner otherwise was entitled for the said benefits but for the presumption that the petitioner was not dependent upon the income of her deceased son; the respondent authorities proceeded to reject the case of the petitioner. The said rejection being so

effected without a detailed consideration of the issues arising in the matter and also considering the provisions of the Rules holding the field; this Court is of the considered view that such rejection of the claim of the petitioner for being granted dependent family pension, does not merit acceptance and accordingly, the communication, dated 22.06.2013, is hereby set aside.

**16.** The respondent authorities shall now consider the case of the petitioner, afresh, strictly in accordance with the provisions of the Central Civil Services(Pension) Rules, 1972, as was holding the field at the time of her son's death and thereafter, on consideration of the contentions raised by the petitioner with regard to the presumption drawn against her of her dependency being related to her husband and negating her contention that she was dependent upon her deceased son for her livelihood; proceed to take a decision in the matter towards grant of family pension to the petitioner on account of the services rendered by her deceased son.

**17.** The said exercise as required to be carried-out, shall be so initiated and completed within a period of 2(two) months from the date of receipt of a certified copy of this order and in the event, the petitioner is found to be entitled to the authorized family pension basing on her personal annual income as brought on record; the same shall be released to the petitioner w.e.f. 19.06.2012 and the arrears as working out herein, shall be released to the petitioner within a period of 1(one) month thereafter along with an interest at the rate of 6% per annum with effect from the date such amounts were due and payable to the petitioner till the date of its actual payment.

**18.** With the above directions, this writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**