

GAHC010152392017



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

Case No. : WP(C)/7671/2017

ANJALI BASUMATARY
W/O- LT DHRUBA BASUMATARY R/O-VILL- GHAGRA KACHARI P.S.
DHEKIAJULI DIST- SONITPUR, ASSAM.

VERSUS

THE STATE OF ASSAM and 5 ORS.
REPRESENTED BY THE COMMISSIONER and SECRETARY, TO THE GOVT.
OF ASSAM, PERSONNELB DEPTT., DISPUR, GHY-6

2:THE SECRETARY
TO THE GOVT. OF ASSAM
RELIEF and REHABILITATION DEPTT.
DISPUR
GHY-6

3:THE DEPUTY COMMISSIONER
SONITPUR
P.O. TEZPUR
DIST- SONITPUR
ASSAM

4:THE SUPERINTENDENT OF POLICE
SONITPUR
P.O. TEZPUR
DIST- SONITPUR
ASSAM

5:THE OFFICER-IN-CHARGE
DHEKIAJULI POLICE STATION VILL and P.O. DHEKIAJULI DIST- SONITPUR
ASSAM

6:THE CIRCLE OFFICER
DHEKIAJULI REVENUE CIRCLE VILL and P.O. DHEKIAJULI

DIST- SONITPUR
ASSA

Advocate for the Petitioner : MR.G TAYE

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

O R D E R

03.06.2024.

Heard Mr. S.C. Biswas, learned counsel for the petitioner. Also heard Ms. U. Das, learned Addl. Senior Government Advocate appearing for the respondent Nos.1, 3, 4, 5 & 6 and Ms. T. Hazarika, learned standing counsel for the Relief & Rehabilitation Department, Govt. of Assam, respondent No.2.

2) The petitioner, by way of instituting the present proceeding has raised a grievance with regard to the action on the part of the respondent authorities in not authorizing to her ex-gratia amount to the tune of Rs.3,00,000/- (Rupees three lakhs), as receivable by her in terms of the policy of the Government in place, in pursuance to the death of her husband Late Dhruba Basumatary, on account of extremist violence on 25.08.2003.

3) As projected in the Writ Petition, the husband of the petitioner who was a businessman, while proceeding to Batasipur at Monasag Tea Estate under Dhekiajuli Police Station was killed by extremists on 25.08.2003. In pursuance to the death of her husband, Smti. Santana Basumatary, who was the first wife of her husband had lodged an FIR in this connection with the jurisdictional Police Station.

4) In terms of the policy in place, the respondent authorities by reckoning the death of the husband of the petitioner to have occasioned on account of activities done by extremists, proceeded to sanction an amount of Rs.1,00,000/- (Rupees one lakh), vide an order dated 04.02.2005 to both the petitioner and said Smti. Santana Basumatary. As contended in the Writ Petition, the said amount was received by the petitioner on an NOC being granted by said Smti. Santana Basumatary, who is contended to have remarried in pursuance to the death of the husband of the petitioner herein.

5) Thereafter, on coming to learn that the Government had revised the ex-gratia amount from Rs.1,00,000/- (Rupees one lakh) to Rs.3,00,000/- (Rupees three lakhs), the petitioner approached the respondent authorities for payment of the enhanced ex-gratia amount. However, such prayer of the petitioner not being considered and enhanced ex-gratia amount not being released to the petitioner, she has instituted the present proceedings.

6) It is seen that the respondent authorities had vide Notification dated 22.06.2004, enhanced the ex-gratia amount, now required to be paid to the next of kin of a person killed in extremist violence to Rs.3,00,000/- (Rupees three lakhs) only. Thereafter, vide Office Memorandum dated 29.07.2013, it was stipulated that in case of persons killed in extremist violence prior to 2004, in whose case application for ex-gratia was not paid and/or have received the ex-gratia amount of Rs.1,00,000/- (Rupees one lakh) as was prevalent then, shall now be given appropriate ex-gratia as per the Notification dated 22.06.2004, by adjusting the amount already received, if any i.e. the ex-gratia amount of Rs.3,00,000/- (Rupees three lakhs) now brought into effect vide the Notification dated 22.06.2004 would also stand extended to cases of persons who had died on account of extremist violence prior to 2004.

7) In the case in hand, it is seen that the respondent authorities had reckoned that the husband of the petitioner had died on account of extremist violence and accordingly, vide order dated 04.02.2005, the petitioner and said Smti. Santana Basumatary, who were the next of kin of the deceased were authorized Rs.1,00,000/- (Rupees one lakh) only, on account of such death occasioning in case of the husband of the petitioner herein. The Office Memorandum dated 29.07.2013 having now also made the next of kin of the husband of the petitioner to receive the enhance ex-gratia amount of Rs.3,00,000/- (Rupees three lakhs), as introduced vide Notification dated 22.06.2004, the petitioner herein is also entitled to receive the enhanced ex-gratia amount in terms of the Notification dated 22.06.2004, read with the Office Memorandum dated 29.07.2013.

8) At this stage, it is to be noted that the Superintendent of Police, Sonitpur had filed an affidavit in the matter wherein it has been brought on record that the husband of the petitioner was killed on account of extremist violence.

9) The Office Memorandum dated 29.07.2013 having made the petitioner also eligible for receiving the enhanced ex-gratia amount, as introduced by the Notification dated 22.06.2004, the petitioner is held to be entitled to receive the enhanced ex-gratia amount and accordingly, the Deputy Commissioner, Sonitpur is now directed to submit a proposal in this connection before the Government of Assam, in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch, clearly indicating that the husband of the petitioner was killed in extremist violence and in this connection, vide an order dated 04.02.2005, on the ex-gratia amount as prevalent then, being sanctioned the same was released to the petitioner and the said Smti. Santana Basumatary. On receipt of the report in this connection, from the Deputy Commissioner, Sonitpur,

the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch shall pass a speaking order, authorizing the petitioner the ex-gratia amount of Rs.3,00,000/- (Rupees three lakhs), as per the Notification dated 22.06.2004.

10) While issuing the said speaking order, the said authority shall also prescribe therein that the enhanced ex-gratia amount now authorized shall be so paid after deducting the ex-gratia amount of Rs.1,00,000/- (Rupees one lakh), already paid in the matter.

11) At the time of death of Late Dhruba Basumatary, there being two persons who were entitled to receive the ex-gratia amount i.e. the petitioner herein and said Smti. Santana Basumatary, both being wives of the deceased Dhruba Basumatary, the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch shall also incorporate in his order as to the manner in which the said payment is to be so made to both the petitioner as well as said Smti. Santana Basumatary.

12) In view of the statement made in the Writ Petition that the ex-gratia amount of Rs.1,00,000/- (Rupees one lakh), sanctioned by the order dated 04.02.2005 was received by the petitioner herein and that Smti. Santana Basumatary had given an NOC in the matter, it is provided that the petitioner as well as Smti. Santana Basumatary shall submit their respective applications before the Secretary to the Govt. of Assam in the Revenue & Disaster Management Department, Relief & Rehabilitation Branch, indicating therein as to manner in which the enhanced ex-gratia amount is now to be released.

13) In the event there is a fresh "No Objection Certificate" (NOC) granted in the matter by Smti. Santana Basumatary, the Secretary to the Govt. of Assam in

the Revenue & Disaster Management Department, Relief & Rehabilitation Branch shall reckon the same and in his speaking order, authorize the amount to be paid to the petitioner herein solely. In absence of any such fresh NOC being made available in the matter, the amount so payable shall be so paid in the manner, it was so authorized vide order dated 04.02.2005.

14) The above exercise now required to be carried out in the matter including the passing of the Speaking Order and release of the enhanced ex-gratia amount shall be so done within a period of three (3) months from the date of receipt of a certified copy of this order.

15) The Deputy Commissioner, Sonitpur is required to submit his report in the matter within a period of one month from the date of receipt of certified copy of this order from the petitioner herein along with a representation.

16) With the above observations and directions, the Writ Petition stands disposed of.

JUDGE

Comparing Assistant