

GAHC010153372023



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

Case No. : WP(C)/4016/2023

MUSSTT. HALIMA KHATUN
W/O LATE AKTER ZAMAN, R/O VILL- LAOGAON, P.O.-SALMARI, P.S.-
RUPAHIHAT, DIST- NAGAON, ASSAM, PIN-782002

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-781006

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-781037

3:THE CHIEF EXECUTIVE OFFICER
NAGAON ZILA PARISHAD
DIST-NAGAON
ASSAM
PIN-782001

4:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI
ASSAM
781029

5:THE BLOCK DEVELOPMENT OFFICER
BAJIA GAON DEVELOPMENT BLOCK
P.O.-KAWAIMARI
DIST- NAGAON
ASSAM
PIN-782140

6:MUSSTT. UMME KULSUM
W/O LATE AKTER ZAMAN
R/O PUB-SINGIMARI
P.O.-SINGIMARI
P.S.-RUPAHIHAT
DIST- NAGAON
ASSAM
PIN-78212

Advocate for the Petitioner : M ALAMGEER,

Advocate for the Respondent : SC, P AND R.D., SC, AG

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

02.08.2024

Heard Shri AI Uddin, learned counsel for the petitioner. Also heard Ms. N. Bora, learned Standing Counsel, Panchayat and Rural Development Department and Shri B. Sarma, learned Standing Counsel, Accountant General, Assam.

2. Briefly stated, the petitioner, who is the second wife, has approached this Court with a claim for the DCRG and the family pension. It is submitted by Shri Uddin, learned counsel for the petitioner that the husband of the petitioner was serving as a Driver in the Office of the Block Development Officer, Bajia Gaon Development Block in the district of Nagaon. While the petitioner was in service, he had passed away on 28.07.2023. It however transpires that the petitioner is the second wife and the respondent no. 6 is the first wife and accordingly they had entered into an agreement for sharing the family pension and DCRG.

3. Though the aforesaid proposal was forwarded, the same was returned.
4. The learned counsel for the parties have however placed before this Court a judgment dated 22.12.2022 passed by the Hon'ble Full Bench of this Court in W.A./160/2018 [**Mustt. Junufa Bibi Vs. Mustt. Padma Begum @ Padma Bibi**]. In the said case, it has been laid down that the second or further wives of the deceased Government servant for whom such marriage was permissible under the Personal Law would approach for appropriate orders for maintenance. For ready reference, the relevant observations made in the aforesaid judgment are extracted hereinbelow:

“23. We also provide that in the event any such other persons who are entitled to the benefits of the family pension in terms of Rule 143 of the Pension Rules of 1969, including the second or further wives, in a case where the parties are governed by the Mohammedan Law, are not appropriately maintained by the eldest of the surviving widow or wife to whom the pension would be paid, the remedy thereof would be to make a claim for maintenance in the appropriate forum under the law and not a claim for a payment of the family pension by the State authorities directly to such persons. But however, if in a given case the State authorities on their own volition are of the view that under an acceptable circumstance the authorities are agreeable or required to pay the pension separately to any such member of a family of a deceased employee, this judgment may not be construed to be an absolute bar on such separate payment.”

5. The learned counsel for the respondents have also submitted that in terms of the aforesaid judgment, the writ petition can be disposed of.

6. In view of the above and in terms of the aforesaid judgment of Hon'ble Full Bench, more particularly, the observations made in paragraph 23 quoted above, the writ petition is disposed of. The directions of the Hon'ble Full Bench would also be applicable and followed in the present case.

JUDGE

Comparing Assistant