

GAHC010172602022



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

Case No. : WP(C)/5627/2022

SMT. KAMALA DEVI
W/O SRI NETRA BAHADUR,
R/O- VILL. WEST UMLAPHER,
P.O.- UMPANAI,
P.S.- BOITHALANGSU,
DIST.- WEST KARBI ANGLONG, ASSAM.
PIN- 782413.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
RELIEF AND REHABILITATION DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL-B DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6.

5:THE DEPUTY COMMISSIONER
WEST KARBI ANGLONG
ASSAM

PIN- 782462.

6:THE CIRCLE OFFICER
DONKAMUKAM REVENUE CIRCLE
DIST. WEST KARBI ANGLONG
ASSAM
PIN- 782485

For the petitioner (s) : Mr. K. Zaman , Advocate

For the respondent (s) : Mr. S. Baruah, Govt. Advocate
Ms. G. Hazarika, SC, Revenue
Mr. B. Gogoi, SC, Finance

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

30.09.2024

The instant writ petition has been filed by the Petitioner claiming an additional enhanced ex-gratia grant of Rs.2,00,000/- each for her two deceased brothers totaling Rs.4,00,000/- in terms with the Notification dated 22.06.2004 & 14.12.2004 and the Office Memorandum dated 29.07.2013.

2. The facts involved in the instant case are that the father and three brothers of the Petitioner were killed by the extremists in the year 2000. Thereafter, the Petitioner as a Next of Kin applied for ex-gratia before the Government of Assam and after proper verification, the Petitioner was paid Rs.1,00,000/- each totaling Rs.2,00,000/- against her deceased father and her deceased elder brother as ex-gratia. The petitioner was subsequently paid the complete ex-gratia amount of Rs.2,00,000/- each totaling Rs.4,00,000/- against her deceased father and the elder brother. Moreover, the petitioner has also received Rs.1,00,000/- each totaling

Rs.2,00,000/- against the death of her other two deceased brothers.

3. The case of the Petitioner herein is that subsequent to the Assam Public Services (Appointment of Family Members of Persons Killed by Extremists/Terrorists) Rules, 1992 repealed vide the Government Notification dated 22.06.2004, the Commissioner & Secretary to the Government of Assam, Personnel (B) Department had issued a communication dated 22.06.2004 to all Deputy Commissioners stating inter alia that the Government had decided to consider the following measures in place of the Rule to give relief to the affected family. Amongst the various measures, it was mentioned that there would be an enhancement of ex-gratia amount paid to the next of kin of a person killed in extremist violence to Rs.3,00,000/-. Subsequent thereto, vide a Notification dated 14.12.2004, the quantum of the ex-gratia compensation which was Rs.1,00,000/- was increased to Rs.3,00,000/- to the Next of Kin of persons killed in extremist/terrorist violence in the State on or after 22.06.2004. Subsequent thereto, there was another Office Memorandum issued on 29.07.2013. The said Office Memorandum was issued in pursuance to the direction passed by the Division Bench of this Court in WP(C) No.3355/2007. In Clause (v) of the said Office Memorandum dated 29.07.2013 it was further stipulated that in case of persons killed in extremist violence prior to 2004 but whose relatives did not apply for any appointment prior to 22.06.2004 and had applied after 22.06.2004 and may or may not have received ex-gratia grant under the 2004 Notification i.e. Rs.3,00,000/- they shall be given appropriate ex-gratia payment in terms with the Notification dated 22.06.2004 adjusting the amount already received if any and they shall also be entitled to be

considered under the Scheme envisaged in the Government Circle vide Notification dated 22.06.2004.

4. The Petitioner herein claims that on account of death of her two elder brothers, she had already received Rs.1,00,000/- each, i.e. Rs.2,00,000/-. In terms with the Office Memorandum dated 29.07.2013, the Petitioner is further entitled to an amount of Rs.2,00,000/- each, i.e. Rs.4,00,000/- against the death of her remaining two brothers. The Petitioner thereupon had approached the Respondent Authorities on various occasions but the Petitioner had not been paid the additional amount of Rs.4,00,000/- for which the instant writ petition has been filed. This Court vide an order dated 02.09.2022 issued Notice.

5. I have heard the learned counsel for the parties and perused the materials on record.

6. From a perusal of the materials on record as well as the statement made in paragraph No.2 of the writ petition, it transpires that the Petitioner had received an ex-gratia payment of Rs. 1,00,000/-each, i.e. Rs.2,00,000/- on account of the killing of her two brothers by the extremists. From a reading of various Office Memorandums including the Office Memorandum dated 29.07.2013, the entitlement of the Next of Kin for an additional amount of Rs.2,00,000/- is there and in the instant case, the Petitioner being the Next of Kin of her deceased brothers, namely, Late Bhim Prasad Dahal and Late Kashi Ram Dahal would be entitled to an additional amount of Rs.2,00,000/-each totally Rs.4,00,000/-.

7. Accordingly, the instant writ petition therefore stands disposed of

directing the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department to disburse the additional amount of Rs.4,00,000/- to the Petitioner after carrying out necessary verification as regards the Petitioner's entitlement as well as identification.

8. The said exercise be completed within a period of 5 (five) months from the date of submission of a certified copy of the instant order along with the necessary documents identifying that the Petitioner is the sister of Late Bhim Prasad Dahal and Late Kashi Ram Dahal to the Commissioner & Secretary to the Government of Assam, Revenue & Disaster Management Department, Guwahati.

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

JUDGE

Comparing Assistant