

GAHC010191942020



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

Case No. : WP(C)/110/2021

GOLAPI BEGUM

W/O- LT. ALAUDDIN AHMED, VILL- NO. 1 KAPLABORI, P.O. LARKUCHI, P.S.
MUKALMUA, DIST.- NALBARI, ASSAM, PIN- 781138

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, ELECTION
DEPTT., DISPUR, GHY-6

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE (A AND F) DEPTT.
DISPUR
GHY-6

3:THE CHIEF ELECTORAL OFFICER
DISPUR
GHY-6

4:THE DISTRICT ELECTION OFFICER
NALBARI
P.O.
P.S. AND DIST.- NALBARI
ASSAM
PIN- 781335

5:THE DY. COMMISSIONER
NALBARI
ASSAM
PIN- 781335

6:THE OFFICER-IN-CHARGE

MUKALMUA P.S.
P.O. AND P.S. MUKALMUA
DIST.- NALBARI
ASSAM
PIN- 78112

Advocate for the Petitioner : MR. W RAHMAN

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 07.06.2024

None appears on behalf of the petitioner, on call. However, Ms. Usha Das, learned Addl. Senior Government Advocate, Assam, and Ms. Gayatree Hazarika, learned standing counsel, Revenue & Disaster Management Department, are present on behalf of their respective respondents.

2. The petitioner by way of instituting the present writ petition, has raised a grievance with regard to the inaction on the part of the respondent authorities in not authorizing to her the adequate ex-gratia compensation amount as per the policy of the Government on account of the death of her husband during the course of his duty as an election official in connection with the conduct of the Panchayat Election for the year 2017-2018.

3. In the writ petition, it is contended that the petitioner's husband Late Alauddin Ahmed was appointed as a Presiding Officer by the District Election Officer(DEO), Nalbari, vide order, dated 16.11.2018, for the conduct of the Panchayat Election for the year 2017-2018.

4. It is further contended that the husband of the petitioner after completion of the election duty, on 08.12.2018 and 09.12.2018, had returned home on 10.12.2018, on an official vehicle. However, the said vehicle at around 2AM in the morning, had forcefully dropped the petitioner's husband along with another teacher of the school at Damdama which is around 2-3 kms. away from the house of the petitioner. The petitioner's husband while proceeding towards his house on foot and having reached the Damdama Pathar village which is at a distance of 1 km. away from his house, he was hit by a speeding tempo causing grievous injury on his head. The petitioner's husband was admitted to N. H. Narayana Hospital, however, he succumbed to his injuries on 19.12.2018.

5. The petitioner in view of the death so occasioning to her husband and having contended that the death of her husband had so occasioned while he was on election duty; has claimed that she is entitled to receive adequate compensation in the matter from the respondent authorities for the death occasioning to her husband.

6. The petitioner, in the present proceeding, however, has not brought on record, any policy of the Government which lays down the manner in which the compensation is to be granted to the next of the kin of persons dying on duty while performing duties for conduct of the Panchayat Election.

7. The petitioner in the writ petition has contended that when it comes to the discharge of duties by an employee of the State Government in connection with Election; it is provided that such duty starts from the day when the petitioner

leaves for election duty from his house till the time, he returns to his house and the petitioner's husband having died before reaching his house on completion of the election duties, it was contended that it is to be deemed that the petitioner's husband had died while performing Election duty.

8. It is seen that the petitioner had approached the District Commissioner, Nalbari, vide her representation, dated 11.12.2018, praying for providing financial assistance for better treatment of her injured husband when he was alive. However, the said representation was not considered. After the death of her husband; further representation was preferred by the petitioner on 08.02.2019 before the District Commissioner, Nalbari, praying for adequate ex-gratia compensation to her family by contending that the family was entirely dependent on the income as received her husband from his services. It is to be noted that the petitioner's husband at the time of his death was working as a Subject Teacher in Mugdi Milon Higher Secondary School.

9. The respondent authorities having not favourably considered the representation of the petitioner, she has instituted the present proceeding.

10. Having noticed the grievance raised by the petitioner, in the absence of any material being brought on record to assess the compensation due to the petitioner on account of the death of her husband; this Court is not in a position to arrive at a conclusion with regard to the ex-gratia payment that is to be authorized to the petitioner.

11. Accordingly, the petitioner, herein, is hereby directed to approach the District Commissioner, Nalbari, by way of submission of a representation, staking a claim for adequate ex-gratia compensation on account of the death of her husband in the circumstances, noted-above, by disclosing therein, all relevant particulars and by enclosing documents that would be so mandated.

12. The District Commissioner, Nalbari, on receipt of such a representation from the petitioner, shall cause an inquiry into the matter and after applying the guidelines as would be applicable in the facts and circumstances involved in the matter; determine as to whether the petitioner is entitled to an ex-gratia compensation on account of the death of her husband.

13. In the event, it is concluded that the petitioner is entitled to an ex-gratia compensation; the District Commissioner, Nalbari, shall pass a speaking order in the matter and therein, by recording the guidelines so applied for determining the compensation so receivable by the petitioner; shall determine the ex-gratia compensation to her and thereafter, the District Commissioner, Nalbari, shall ensure that the petitioner is released with the ex-gratia compensation so determined in the matter by him.

14. The exercise as now required to be carried-out in terms of the directions passed by this Court hereinabove, shall be so initiated and completed by the District Commissioner, Nalbari, within a period of 4(four) months from the date of receipt of a certified copy of this order along with a representation as is now required to be submitted in the matter by the petitioner, herein.

15. In the event, the release of the said compensation requires an approval from the Secretary to the Government of Assam in the Revenue & Disaster Management, Rehabilitation and Relief Branch; such approval shall be so received by the District Commissioner, Nalbari, within the time-frame as provided for finalization of the issue, hereinabove, in this order.

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

JUDGE

Comparing Assistant