

GAHC010222232021



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

Case No. : WP(C)/7353/2021

SMT. BHARATI DEKA
W/O LT. SATISH CHANDRA DEKA, M/O LT. BISHNU DEKA, R/O NAVA
NAGAR, P.O.-BENGENA KHUWA, DIST-GOLAGHAT, ASSAM, PIN-785702

VERSUS

THE STATE OF ASSAM AND 11 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PHE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE SECRETARY TO THE GOVT. OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-6

3:THE CHIEF ENGINEER
PHE DEPARTMENT
ASSAM
HENGABARI
GUWAHATI-36

4:THE EXECUTIVE ENGINEER (PHE)
GOLAGHAT DIVISION
GOLAGHAT
PIN-785621

5:THE ACCOUNTANT GENERAL
GOVT. OF ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-29

6:THE TREASURY OFFICER
GOLAGHAT
DIST- GOLAGHAT
ASSAM
PIN-785621

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

8:SMTI. SUNITA DEKA
W/O LT. BISHNU DEKA
PRESENTLY W/O JOGEN DEKA
VILL- PODUMONIGAON (NEAR TELEPHONE EXCHANGE)
P.O.-SARUPATHAR
DIST-GOLAGHAT
ASSAM
PIN-785601

9:BIMAN DEKA
S/O LT. BISHNU DEKA
R/O SARUPATHAR BUS STAND
P.O.-SARUPATHAR
DIST-GOLAGHAT
ASSAM
PIN-785601

10:SMT. JOYSHREE DEKA
D/O LT. BISHNU DEKA
W/O MADHURYA BHUYAN
R/O TELAHI
P.O.-TELAHI
DIST- MORIGAON
ASSAM
PIN-782412

11:SMTI MOMI DEKA
D/O LT. BISHNU DEKA
W/O NITUL GOGOI
R/O NAGAJURI VILLAGE
P.O.-SARUPATHAR
DIST-GOLAGHAT
ASSAM
PIN-785601

12:SMT. KARABI DEKA
D/O LT. BISHNU DEKA

W/O TAPAN DEKA (EX. HUSBAND)
R/O BHURBANDHA
P.O.-BHURBANDHA
DIST- MORIGAON
ASSAM
PIN-78210

Advocate for the Petitioner : K U AHMED, MS P SARMA, MS N HASAN

Advocate for the Respondent : GA, ASSAM, MR. S K MEDHI (r-5), SC, P H E, SC, FINANCE, SC, AG

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

01.08.2024.

Heard Shri KU Ahmed, learned counsel for the petitioner and Shri RR Gogoi, learned Standing Counsel, PHE. Also heard Shri A Chakraborty, learned State Counsel, Assam as well as Ms. RN Baruah, learned counsel appearing on behalf of Shri A Chaliha, learned Standing Counsel, Finance Department. Shri SK Medhi, learned Standing Counsel, Accountant General, Assam is also present.

2. The matter pertains to a claim for family pension. As per the facts projected, the son of the petitioner, Bishnu Deka was serving as a Pump Operator in the Public Health Engineering Department. While serving as such, he had passed away on 18.5.2012. It is the specific case of the petitioner that though her son was married, his wife had eloped during the lifetime of her son and had also got married to another person.

3. The deceased had four sons and daughters and all are married and they have also been made party respondents. Though the petitioner, who is the dependent mother, had made a claim for release of the family pension and other benefits owing

to the services of her deceased son, the same has not been released.

4. Shri Ahmed, learned counsel for the petitioner has submitted that the wife of the deceased and all the sons and daughters have been made parties. Apart from the fact that the sons and daughters are all married and will not have any claim on the family pension, even the wife had eloped during the lifetime of the deceased and got married. He has also submitted that none of the aforesaid parties, who have been made respondents, have appeared in spite of services made and has contested the proceedings.

5. Shri Gogoi, learned Standing Counsel of the Department has submitted that the proposal was sent to the office of the Accountant General, Assam.

6. Shri Medhi, learned Standing Counsel, Accountant General has, however, submitted that it is only on the issue regarding any entitlement by the wife for which the release has been delayed. He has also placed on record a communication dated 05.08.2022 issued by the office of the Accountant General, Assam to the PPG Department, Government of Assam, seeking their views.

7. This Court has considered the submissions and also the materials placed on record.

8. It appears that while the proposal has been duly sent by the Administrative Department to the office of the Accountant General, only on the issue of existence of the wife of the deceased that the matter has been put on hold. The communication dated 05.08.2022, however, reveals that the wife had eloped with another person during the lifetime of the deceased and is continuing her relationship with that person as husband and wife. However, there was no divorce paper. It also, however, appears

that the wife has not made any claim for family pension and even the instant proceeding has not been contested by her. Delaying the aspect of release of pension only for the issue mentioned above would not be in the interest of justice. Since there is no claim by the wife may be for reasons existing which are also recorded in this order, this writ petition is disposed of by directing that the family pension and other benefits accruing to the deceased be released to the petitioner without any further delay and in any event, within a period of **2 months from today**. It is, however, provided that in the event, there is any claim by the wife, the same would be adjudicated for the aspect of apportionment of family pension.

9. A copy of the communication dated 05.08.2022 is made a part of the records.

JUDGE

Comparing Assistant