

GAHC010240342018



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

Case No. : I.A.(Civil)/3794/2018

M/S INDIAN OIL CORPORATION LTD. REFINERIES DIVISION
GUWAHATI REFINERY, NOONMATI, GUWAHATI-20, ASSAM

VERSUS

SMTI SABITA DAS AND 3 ORS
W/O LATE GAURI DAS, R/O HOUSE NO 160, PATHARQUARRY, GAONBURA
PATH (SHIV MANDIR PATH), GUWAHATI-26, KAMRUP (M), ASSAM

2:HIMANGSU DAS
S/O LATE GAURI DAS
BEING MINOR IS REPRESENTED BY HIS NATURAL GUARDIAN CUM
MOTHER SMTI. SABITA DAS (R1)
R/O HOUSE NO. 160
PATHARQUARRY
GAONBURA PATH (SHIV MANDIR PATH)
GUWAHATI-26
KAMRUP (M)
ASSAM

3:SMTI ANJU KAKATI @ ANJUMONI DAS
D/O LATE GAURI DAS
W/O SHRI PRABIN KAKATI
R/O GUWAHATI REFINERY TOWNSHIP
SECTOR-2
QUARTER NO 2141
NOONMATI
GUWAHATI-20
KAMRUP (M)
ASSAM

4:SMTI. DIPIKA DAS NATH @ DIPIKA DAS

D/O LATE GAURI DAS
W/O SHRI DIPAK KUMAR NATH
R/O PACHANIYAPARA
P.O-BONGRA
P.S.-AZARA
GUWAHATI-15
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. N DEKA

Advocate for the Respondent : MR. S BORTHAKUR (OP1)

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 22.01.2024
(K.R. Surana, J)

Heard Mr. N. Deka, learned counsel for the applicant. Also heard Mr. S. Borthakur, learned counsel appearing for the opposite party nos. 1 and 2 and Mr. M. Biswas, learned counsel for the opposite party nos. 3 and 4.

2. It may be mentioned that the learned counsel for the opposite party nos. 1 and 2 as well as opposite party nos. 3 and 4 have both submitted that the brief is no longer with them.

3. Be that as it may, in view of the nature of prayer made in this application, we hold that the opposite party nos. 1 and 2 as well as the opposite party nos. 3 and 4 shall continue to be duly represented by their learned counsel in view of the explanation to Rule 4 of Order III CPC.

4. By filing this application, the applicant which is a public sector undertaking has brought to the notice of the Court that a dispute has arisen

between the opposite party nos. 1 and 2 as well as opposite party nos. 3 and 4 regarding their claim in respect of shares of terminal benefit of their late predecessor-in-interest, namely, Late Gauri Das, who was an employee of the applicant. In course of the proceedings, the matter was compromised between the two sides and accordingly, the matter was disposed of by order dated 24.05.2018 passed by the Division Bench of this Court in WA 122/2018. The effective part of the said order regarding the settlement is reproduced below:

“As per the settlement arrived at between the parties, already an amount of Rs. 50 lakhs has been released to the appellants. Balance amount of Rs.51,15,515.00 which is lying with the IOCL would be shared between the parties in the following manner:-

1. Rs. 30 lakhs would be received by respondent Nos.1 and 2, namely, Smt. Anju Kakati @ Anjumoni Das and Smt. Dipika Das Nath @ Dipika Das;

2. The remaining amount, i.e., Rs.21,15,515.00 would be released to the appellants, Smt. Sabita Das and Shri Himangshu Das.

Mr. N. Deka, learned Standing Counsel, IOCL submits that within a period of 15 days, the above amounts will be released to the respective parties.”

We approve the settlement arrived at between the parties as recorded above and order accordingly. Judgment and order of the learned Single Judge dated 27.02.2018 stands modified to the above extent.

5. The learned counsel for the applicant has submitted that as per their record, some interest has been accruing on the balance terminal benefits of Late Gauri Das and as per their record, the interest as on the date of their calculation has amounted to Rs.2,70,480/-. It also submitted that there is every likelihood that by the time payments are made there might be some more accrual of interest. Accordingly, it is submitted that as there is no order for appropriation of interest between opposite party nos. 1 and 2 on one side and opposite party nos. 3 and 4 on other side, and with regard to payment thereof, the applicant has filed this application for an order of this Court to release the

interest on the terminal benefit to the said parties.

6. In view of the nature of prayer made, the learned counsel on record for the opposite party nos. 1 and 2 as well as Nos. 3 and 4 have fairly submitted that in their personal opinion, and without instruction from their respective clients, the offer of payment of interest by the applicant cannot be said to be unreasonable.

7. Therefore, taking note of the fact that the opposite party nos. 1 and 2 as well as opposite party nos. 3 and 4 have arrived at a settlement which is indicated above, the Court is inclined to allow the applicant i.e. IOCL to release the interest which has accrued on the terminal benefits in same ratio as the principle terminal benefit was appropriate and/ or divided and paid to the respective opposite party nos. 1 and 2 as well as opposite party nos. 3 and 4.

8. In disbursing payment, if there is any fraction, we permit the applicant to round it off to the nearest rupee.

9. We also put on record the appreciation towards the applicant and their concerned officers who have found out that dues on account of interest is payable to the estate of the deceased employee and has offered to release the amount to opposite party nos. 1 to 4.

10. In view of above, this application stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant