



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

Case No. : WP(C)/241/2023

MRS. AVO NIENU @ AVO PESEYIE @ AVO
W/O LATE V.K. PESEYIE,
R/O WARD NO.4, CHUMUKEDIMA,
DIMAPUR, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF NAGALAND,
NAGALAND, KOHIMA 2:DIRECTOR GENERAL OF POLICE

NAGALAND
KOHIMA

3:THE DEPUTY COMMISSIONER

KOHIMA
NAGALAND

4:THE ACCOUNTANT GENERAL

NAGALAND
KOHIM

Advocate for the Petitioner : YANGER WATI

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 21.03.2024

Heard Mr. Yanger Wati, learned counsel for the petitioner and Ms. Inaholi, learned Government Advocate for the State respondents No. 1, 2 and 3. Also heard Mr. N. Mozhoi, learned Standing counsel for the respondent No. 4, being the Accountant General, Nagaland.

2. This petition, under Article 226 of the Constitution of India, is preferred by the petitioner, namely, Mrs. Avo Nienu @ Avo Peseyie @ Avo, for issuing direction to the respondents to insert her name as nominee and to issue pension of her late husband as per CCS (Pension) Rules, 1972.

3. The background facts leading to filing of the present petition are adumbrated herein below:

“The petitioner got married with Late V.K. Peseyie in the year 1979 and they were blessed with four children and all of them are matured now. The late husband of the petitioner was working as Security Officer in Nagaland Armed Police Service (NPS) and posted at Doyang Hydroelectric Project, Wokha, Nagaland and he suffered demise in the year 1995, and sometime in the year 2000, the petitioner proceeded to claim the family pension of her late husband and then, she was informed that her name was not included as nominee in the pension papers of her late husband, instead, her children were shown as nominee in the pension book of her late husband. Thereafter, on 17.04.2007, the petitioner was granted

succession certificate by the Deputy Commissioner, Kohima, Nagaland, whereby she was allowed to draw/operate/transfer the pension of her late husband. Then, she had filed one representation to the office of the Accountant General, who informed her that the family members have to settle the matter as to who is entitled to draw family pension of Late V.K. Peseyie. Thereafter, the children of the petitioner as well as Shri Krurovi Peseyie, who is the brother of Late V.K. Peseyie, have declared that the petitioner is the legally married wife of Late V.K. Peseyie and she is entitled to get the family pension, as per CCS (Pension) Rules, widow/widower, up to the date of death or remarriage, are entitled for pension. Under the given facts and circumstances, she has approached this Court by filing the present petition.”

4. The respondents have not filed any affidavit-in-opposition here in this petition.

5. Mr. Yanger Wati, learned counsel for the petitioner submits that the petitioner is the legally married wife of Late V.K. Peseyie, who was serving in Nagaland Armed Police Service and posted at Doyang Hydroelectric Project, Wokha and he suffered demise in the year 1995 leaving behind the petitioner and four children. Mr. Wati further submits that because of some difference, the petitioner and her late husband V.K. Peseyie were separated, but not legally and after the demise of V.K. Peseyie, the name of their children were shown as nominee. Mr. Wati also submits that as per CCS (Pension) Rules, the widow is entitled to draw the family pension of her late husband, but the same has been denied to her by the brother of her late husband, namely, Shri Krurovi Peseyie and their four children

have been shown as nominee. Mr. Wati referring to Annexure 'H', at page 20 of the writ petition, submits that Annexure 'H' is one affidavit sworn by Shri Krurovi Peseyie, wherein he stated that he has no objection as regard to any claim made by Mrs. Avo, wife of his late brother V.K. Peseyie, in respect of pensionary benefits and change of nominee. Mr. Wati, therefore, has contended to allow the petitioner to draw the family pension and further, Mr. Wati submits that as per Office Memorandum issued by the Government of Nagaland, before changing a nominee, an enquiry has to be conducted by the Deputy Commissioner of the concerned district and since the petitioner has been granted succession certificate by the Deputy Commissioner, Kohima, Nagaland, the present petition may be disposed of in terms of the Office Memorandum dated 13.07.2015, by directing the Deputy Commissioner to conduct such an enquiry and thereafter, to change the nominee of the late husband of the petitioner.

6. Both Mr. Mozhoi, learned Standing counsel for the Accountant General and Ms. Inaholi, learned Government Advocate submit that they have no objection if the present petition is disposed of in the terms of the Office Memorandum No. PAR/PEN/OBJ/6/2012, dated 13.07.2015.

7. Having heard the learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Office Memorandum dated 13.07.2015, issued by Government of Nagaland, which is enclosed with the petition as Annexure 'J'.

8. It appears that in the said Office Memorandum, it has been directed that inclusion/change of nominee (which shall also include

post-retiral spouse and children) for the purpose of family pension after the death of the pensioner (in respect of settled case) shall not be allowed without proper enquiry by the Deputy Commissioner of the district. Any alteration/addition in the size of the family should be immediately brought to the notice of the Head of Office in the prescribed format for onward submission to Accountant General's office while the pensioner is still alive.

9. It is not in dispute that the present petitioner is the legally married wife of Late V.K. Peseyie, who was serving in the Nagaland Armed Police Service as Security Officer and posted at Doyang Hydroelectric Project, Wokha. It is also not in dispute that family pension was issued in favour of the four children of the petitioner instead in the name of the petitioner after demise of Late V.K. Peseyie. Further, it appears that as per CCS (Pension) Rules, widow/widower, after the date of death or re-marriage, are entitled to family pension. In view of above and the petitioner being the legally married wife of Late V.K. Peseyie, to the considered opinion of this Court, she is entitled to pensionary benefits of her late husband.

10. In view of the above admitted position and also in view of the Office Memorandum dated 13.07.2015, this Court is inclined to dispose of this petition by directing the petitioner to approach the Deputy Commissioner, Kohima District, Nagaland, for making an enquiry in respect of change of nominee of Late V.K. Peseyie and to take appropriate action and thereafter, to redress the grievance of the petitioner as soon as practicable, after which the same shall be brought to the notice of the Head of the Office in prescribed format for onward submission to the Accountant General's office and on

receipt of which the Accountant General, respondent No. 4 herein, shall proceed to dispose of the same in accordance with law, as soon as practicable.

11. In terms of above, this writ petition stands disposed of.
12. The parties have to bear their own cost.

Sd/-

JUDGE

Comparing Assistant