

GAHC010260682024



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

Case No. : WP(C)/6628/2024

JYOTI KALITA BORAH
WIFE OF LATE SUBAL BORAH, RESIDENT OF VILLAGE- DHING, ATHGAON
(UJANIKHAUDA), P.O. AND P.S. DHING DISTRICT- NAGAON, ASSAM, PIN
CODE- 782123

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
HOME DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE COMMANDANT
ASSAM SPECIAL RESERVED FORCE BN II
GOVERNMENT OF ASSAM
KARAGAON
DISTRICT- KARBI ANGLONG
ASSAM
PIN- 782480

3:THE DIRECTOR
PENSION AND PUBLIC GRIEVANCE
ASSAM
DISPUR
GUWAHATI
PIN CODE- 781006

4:SMT. GUNESWARI BORAH
MOTHER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM

PIN CODE- 782123

5:SMT LIPIKA BORAH
DAUGHTER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM
PIN CODE- 782123

6:SMT. DIPSHIKHA BORAH
DAUGHTER OF LATE SUBAL BORAH
VILLAGE- DHING ATHGAON
P.O. AND P.S. DHING
DISTRICT- NAGAON
ASSAM
PIN CODE- 78212

Advocate for the Petitioner : MR. U K GOSWAMI, MS. J DEKA,MS. A TALUKDAR

Advocate for the Respondent : GA, ASSAM,

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

ORDER

11.12.2024

Heard Mr. UK Goswami, learned counsel for the petitioner, who submits that by filing this writ petition, the petitioner seeks for a direction to the respondents to grant her compassionate family pension, family pension and other pensionary benefits including all other service benefits.

The petitioner is a widow of a deceased Nayak at Assam Special Reserve Force, Karagaon at Karbi Anglong District. The employee initially was married to

another lady and from her they had three daughters and out of which, one of them had expired. The employee and the earlier wife had expired and according to the present petitioner, being the surviving widow was entitled to be given compassionate family pension, family pension and other pensionary benefits including all other service benefits in terms of Rule 143 (ii)(a) of the Assam Services (Pension) Rules, 1969.

The learned counsel for the petitioner further submits that the mother-in-law of the petitioner and the two step daughters have filed succession case and the Court of the Additional District Judge has granted succession certificate in their favour which the petitioner had also challenged by filing an appeal before this Court, namely, Intest. Case No.4/2024. The said appeal is said to be pending as on date. The learned counsel for the petitioner submits that as per the Pension Rules, only one person is entitled to be given the pensionary benefits and, therefore, the succession certificate so granted in favour of the mother-in-law and the two step daughters is illegal. He, therefore, submits that an interim order may be passed in favour of the petitioner for grant of a provisional pension.

In view of the above, issue notice of motion, returnable by 4(four) weeks.

Mr. D Borah, the learned Government Advocate, Assam accepts notice on behalf of respondent Nos.1, 2 and 3.

Petitioner to serve requisite extra copies of the writ petition to the learned Government Advocate, Assam within two days.

Let steps be taken for service of notice to the respondent Nos.4, 5 and 6 by registered post with A/D within three days.

Having regard to the fact that a succession certificate has been issued in

favour of the private respondents and that the present petitioner had also filed an appeal, the prayer for interim, therefore, at this stage is declined.

List after 4(four) weeks.

JUDGE

Comparing Assistant