

GAHC030005012025



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

Case No. : I.A.(Civil)/123/2025

Union of India r/b Secretary to the Govt of India, Broadcasting and 3 Ors.
New Delhi 2: The Director General
Prasar Bharati

3: The Dy Director (Admn)
Prasar Bharati

4: The Director
Doordarshan Kendra
Aizaw

VERSUS

Smt. Rohlupuii and 3 Ors.
W/o Dal Bahadur (L)
R/o Durtlang North, Aizawl Mizoram 2:Mr Larchhuakmawia

3:Smt. Lalremruati

4:Smt. Bahaduri Kal

Advocate for the Petitioner : Ms Zairemsangpuui

Advocate for the Respondent : Mr Lalchhanliana Khiangte for R1, 2 and 3

Linked Case : WA/10/2025

Union of India r/b the Secretary to the Govt. of India
Broadcasting
New Delhi

2: The Director General
Prasar Bharati
New Delhi

3: The Dy Director (Admn)
Prasar Bharati
New Delhi

4: The Director
Doordarshan Kendra
Aizawl
Aizawl Mizoram
VERSUS

Smt. Rohlupuii and 3 Ors.
W/o Dal Bahadur(L)
R/o Durtlang North
Aizawl
Mizoram

2:Sh. Larchhuakmawia
S/o Dal Bahadur (L)
R/o Dutlang North
Aizawl
Mizoram

3:Smt Lalremruati
D/o Dal Bahadur(L)
R/o Durtlang North
Aizawl
Mizoram

4:Smt. Bahaduri Kala
First wife of Dal Bahadur(L)
R/o AR Bazar (C/0 Shnati Store)
Happy Valley
East Khasi Hills
Meghalaya

Advocate for the Petitioner : Ms Zairemsangpuui
Advocate for the Respondent : Mr Lalchhanliana Kiangte for R1
2 and 3

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

20.01.2026

(Michael Zothankhuma, J)

Heard Ms. Zairemsangpuii, learned CGC for the applicant. Also heard Mr. Lalchhanliana Khiangte, learned counsel for the respondent Nos. 1, 2 & 3. None appears for the respondent No. 4, inasmuch as, service of notice is not complete upon the said respondent.

2. This is an application for condonation of delay of 321 days in filing the appeal against the impugned Judgment & Order dated 13.08.2024 passed by the learned Single Judge in WP(C) No. 96/2022 wherein, the learned Single Judge has directed the payment of family pension to the respondent No. 1 for the services done by the respondent No. 1's husband, Sh. Dal Bahadur, on the ground that in the family declaration given by Sh. Dal Bahadur, the respondent No. 1's name has been recorded along with respondent Nos. 2 & 3, who are the children of Sh. Dal Bahadur with respondent No. 1. Also, the respondent Nos. 1, 2 & 3 should be given DCRG as per the nomination made in the Nomination

Form. The said direction passed by the learned Single Judge has been made on the ground that the respondent No. 4 (first wife of Sh. Dal Bahadur), who was receiving family pension for services rendered by Sh. Dal Bahadur as Assam Rifles personnel had not been recorded in the family declaration made by the Government Servant, while working for Doordarshan Kendra, Aizawl as Security Guard.

3. The facts of the case in a nutshell is that the late Sh. Dal Bahadur served in the Assam Rifles as a Rifleman since 10.05.1965 till his voluntary retirement on 30.01.1988. Thereafter, on 03.05.1993, he was appointed as Security Guard in Doordarshan Kendra, Aizawl. Sh. Dal Bahadur expired on 02.09.1999. On the respondent No. 1 approaching the Doordarshan Kendra authorities for payment of family pension and other benefits of her late husband, she was informed that the Record Officer of the Directorate General of Assam Rifles, vide Communication dated 26.07.2001, had stated that family pension had been sanctioned to his first wife (respondent No. 4). It was also communicated to her that she was not recorded in the service record of Sh. Dal Bahadur while serving in the Assam Rifles, as his wife. Further, as the family pension in relation to his service in the Assam Rifles already being disbursed to the respondent No. 4 (the first wife), no family pension could be given to the respondent No. 1. The

respondent No. 1 approached this Court and this Court thereafter granted family pension to the respondent No. 1 with regard to the service rendered by Sh. Dal Bahadur in Doordarshan Kendra as Security Guard.

4. The learned counsel for the applicant submits that when Sh. Dal Bahadur had concealed the name of his first wife in the family declaration form, while working for Doordarshan Kendra, the same could not be a ground for denying the service benefits/second family pension to the first wife. Further, the marriage between Sh. Dal Bahadur and the respondent No. 1 would be deemed to be null and void, as the same happened during the subsistence of marriage of Sh. Dal Bahadur and his first wife. As such, the second family pension could not be given to the respondent No. 1.

5. The learned counsel for the applicant submits that a grave miscarriage of justice would occur, if the condonation of delay application is not allowed.

6. She submits that the delay in filing the appeal occurred due to the following reasons. The impugned Judgment & Order was passed on 13.08.2024 and the same was sent to the applicant No. 3 on 16.08.2024. The same was received by the applicant No. 3 on 19.08.2023 and forwarded to the DDG (Admin) Guwahati Zonal Office (NEZ) on 22.08.2024. Clarification was sought for on 23.08.2024 and a reply was received from Doordarshan Kendra on

03.09.2024 by the Deputy Director General (Admin), Guwahati Zonal Office (NEZ).

7. That on 04.09.2024, Director General, Doordarshan letter was sent to Ministry of Ministry of Information Broadcasting and Doordarshan.

8. That on 05.09.2024, order dated 13.08.2024 forwarded to Respondent No. 1 to 3 from Director, DDK, Aizawl.

9. That on 06.09.2024, Director, Doordarshan Kendra, Aizawl sought permission/ order for disbursing the pension from competent Authority.

10. That on 12.09.2024 a separate e file No. 139024 was initiated by Director General Doordarshan to take up the matter with Legal Cell, PB, New Delhi.

11. That on 23.09.2024 clarification sought from Doordarshan Kendra, Aizawl as per Legal Cell, Director General Doordarshan inputs.

12. That on 27.09.2024 reply received from Doordarshan Kendra, Aizawl.

13. That on 07.10.2024 after proper scrutiny file again put up to Legal Cell, Director General Doordarshan.

14. That on 20.11.2024 File received back from Legal Wing, Prasar Bharati with inputs.

15. That on 21.11.2024 put up forwarding the file to Ministry of Information Broadcasting/Department of Personal Pension Wings.

16. That on 09.12.2024 file sent to Additional Director General, North East Zone for checking the details in the proposal before forwarding to Department of Personal Pension Wings.

17. That on 26.12.2024 matter forwarded to Ministry of Information Broadcasting /Department of Personal Pension Wings for Directions.

18. The Court/Office of Central Government Counsel remained closed till 13-01-2025 due to winter vacation. Hence, no action could be taken up in due course for any further progress in the said case.

19. Various communications were made thereafter, which is reflected from paragraph Nos. 9 to 36 of the application for delay in filing the appeal. The same shows that there has been many communications made between various offices.

20. The learned counsel for the respondent Nos. 1 to 3, on the other hand, submits that initially, there was no marriage between the respondent No. 1 of the late Dal Bahadur. However, bride's price had been paid on 12.04.1982 as per the Mizo Custom. Later, a Marriage Certificate was issued to them by the Salvation Army, which is a Christian denomination. He also submits that even though the respondent No. 4 was recorded in the service book of the late Dal Bahadur as his wife, when late Dal Bahadur was serving in the Assam Rifles, the

respondent No. 4 was not recorded as the wife of the late Dal Bahadur in the family declaration form, while late Dal Bahadur worked in the Doordarshan Kendra, Aizawl. He submits that even though the respondent No. 4 may be getting family pension in respect of the service of late Dal Bahadur in the Assam Rifles, the second family pension for serving in the Doordarshan Kendra cannot be granted to respondent No. 4, but to the present respondent No. 1.

21. Whatever be the facts of the case, it is clear that there cannot be a valid second marriage during the subsistence of a first marriage under the Hindu Marriage Act, 1955.

22. We are aware that delay should not be condoned simply due to the reason that there are many desks which have to be gone through in a Government Office, prior to filing an appeal. It is no doubt true that the consideration for condonation of the delay application should not be different for the Government and an individual. However, there is also another aspect to the same, inasmuch as, when we look at the merits of the case, we are of the tentative view that gross miscarriage of justice may take place, if the delay is not condoned.

23. In this respect, we would like to refer to the judgment of the Hon'ble Supreme Court in the case of ***State of Nagaland v. Lipok Ao & Ors.***, reported in ***2005 (3) SCC 752***, which has referred to another of its judgment

in the case of ***O.P. Kathpalia v. Lakhmira Singh***, reported in ***1984 (4) SCC 66***, wherein it has been stated that if refusal to condone the delay results in grave miscarriage of justice, it would be a ground to condone the delay.

24. In view of the facts as stated above and keeping in view that there is no averment made by anybody that the first wife had expired or died or that the marriage of respondent No. 1 and Sh. Dal Bahadur had not been made during the subsistence of the marriage of Sh. Dal Bahadur and the first wife, we are inclined to condone the delay of 321 days. Delay is accordingly condoned.

25. I.A accordingly stands disposed of.

JUDGE

JUDGE

Comparing Assistant