

GAHC010025162019



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

Case No. : WP(C)/849/2019

PRATIMA DEKA
W/O LATE BIREN DEKA
R/O VILL- GUWAKUCHI
P.O. AND P.S. NALBARI
DIST. NALBARI, ASSAM
PNI - 781369

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY, IRRIGATION
DEPARTMENT,
DISPUR, GUWAHATI 06.

2:THE DIRECTOR OF PENSION

GOVT. OF ASSAM

NAHARONI-PATH
HOUSEFED
DISUR
BASISTHAPUR
GUWAHATI 781006
ASSAM.

3:THE EXECUTIVE ENGINEER

GUWAHATI ELECTRICAL DIVISION (IRRIGATION)
CHANDMARI
GUWAHATI - 781003.

4:THE TREASURY OFFICER

KAMRUP (M)
DIST. KAMRUP (M)
ASSAM.

5:THE ACCOUNTANT GENERAL
ASSAM
BELTOLA

GUWAHATI -27.

6:SMTI. GOLAPI DEKA
W/O LATE BIREN DEKA
R/O PREM DEKA PATH

HAZARAPARA
TEZPUR

ASSAM
PIN - 784001

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

18.05.2022

Heard Shri S. Hazarika, learned counsel for the petitioner, who is aggrieved by non-payment of family pension.

2. It is the case of the petitioner that the petitioner is the wife of one Biren Deka, who was working in the Irrigation Department as a Handyman and had passed away on 10.08.2016. The petitioner claims of having three children also.

3. The claim of the petitioner has been contested by the respondents including the respondent no. 6 by filing affidavit. The said respondent no. 6 represented by Shri P. Mahanta, the learned counsel submits that the claim of the petitioner appears to be

a misconceived one *inasmuch as* it is the respondent no. 6, who is first wife of the deceased employee and as per law, it is the respondent no. 6, who is entitled to the family pension. The aforesaid stand of the respondent no. 6 is also endorsed by Shri N. Upadhyay, the learned Standing Counsel, Irrigation Department as well as Shri A. Hassan, the learned Standing Counsel, AG, Assam.

4. After hearing the parties and on perusal of the records, this Court has noticed that the parties are Hindu by religion and as per the Hindu Marriage Act there is no concept of bigamy and rather the same is an offence under the Indian Penal Code and also a ground for divorce. Shri Hazarika, the learned counsel for the petitioner fairly submits that the children are also major and therefore, though some relief could have been given to the children in case they were minor, that situation is also not there.

5. In that view of the matter, this Court has no other option but to dismiss this petition *inasmuch as* a second wife is not entitled to family pension in existence of the first wife in this case of which the facts are admitted and the parties are Hindus by religion.

6. The writ petition accordingly stands dismissed.

JUDGE

Comparing Assistant