
(2014) 09 MAN CK 0007
In the Manipur High Court
Case No : W.P. (C) No. 1576 of 2001

Ng. Chandramani Singh

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Citation : (2014) 09 MAN CK 0007

Hon'ble Judges : Laxmi Kanta Mohapatra, Acting C.J.; N. Kotiswar Singh, J

Bench : Division Bench

Advocate : Mark Kaphai, Advocate for the Appellant; S. Rupachandra Singh, ASG and R.S. Reising, Sr. GA, Advocate for the Respondent

Final Decision : Allowed

Judgement

Laxmi Kanta Mohapatra, Actg. C.J.

1. Both the petitioners having lost their respective sons in an encounter, have filed this writ petition claiming compensation of Rs. 10,00,000/- (Rupees ten lakhs) each. The case of the petitioners is that the petitioner no. 1 is the father of deceased Ngasepam Asothama Singh and petitioner no. 2 is the mother of deceased Abung Rongmei. Both the deceased persons were very close friends and were prosecuting their studies. On 02.08.2000, both the deceased persons were in the residence of deceased Ngasepam Asothama Singh. A few minutes later the said deceased Asothama Singh took his scooter bearing registration No. MN-1H7983 informing his family members that he would drop the other deceased along with a gas cylinder in his residence. Since the deceased did not come back home that night, parents made enquiry and received information that two boys had been killed by the personnel of the 12th Assam Rifles in the night of 2.8.2000. Subsequently both the petitioners identified the dead bodies in the RIMS Morgue and as per the post mortem report they had died because of hemorrhage associated with head injury resulting from firearm and the death was homicidal.

2. Parents of the deceased persons accordingly have filed this writ petition for payment of compensation of Rs. 10.00 lakhs to each of the petitioner.

3. A counter affidavit has been filed by the State respondent no. 2 denying the allegations. It is submitted in the counter affidavit that the Police seized one Pistol with Magazine and six rounds and one H.E. 36 grenade and 5 rounds of AK. 47 at the time of investigation.

4. A separate counter affidavit has been filed by the respondents 1, 3 & 4 wherein while denying the allegations made by the petitioner, it is stated that on being fired by the two deceased, action was taken by the Assam Rifles for self defence and such firing was not a punitive action.

5. On consideration of the claims of the petitioners and denial of the same by the respondents, this Court directed the learned District Judge, Manipur East to conduct an enquiry and submit the report. In compliance of the said order, the learned District Judge has submitted the report on 24.05.2012. From the report, it appears that the learned District Judge framed two issues, such as whether both the deceased died in the encounter between them and personnel of 12th Assam Rifles on 2.8.2000 OR whether the deceased were apprehended by the 12th Assam Rifles on 2.8.2000 at about 9 p.m. and were killed while in custody. The parties were allowed to examine their witnesses. On consideration of the evidence placed before the learned District Judge in the enquiry, following finding was arrived at:

"Therefore, I have decided that the sons of the petitioners, namely (i) Ngasepam Asothama Singh and (ii) Abung Rongmei were killed by the personnel of 12th Assam Rifles on 02.08.2000 at about 9.45 p.m. by firing indiscriminately from the eastern and southern sides of trijunction of Lilasing Khonangkong without any admissible reason and without any attempt to arrest the deceased persons by following the Rule of Law prevailing in this Democratic Country and not in the encounter between the personnel of 12th Assam Rifles and the deceased sons of the petitioners."

6. From the above report, it is clear that both the deceased persons were killed by the personnels of 12th Assam Rifles on 02.08.2014 at about 9.45 p.m. because of indiscriminate firing from the eastern and southern sides of trijunction of Lilasing Khongnangkong without any reason and without any attempt to arrest the deceased persons. The learned counsel for the petitioners relying on the said report, one decision of the Apex Court as well as Gauhati High Court submitted that the deceased persons having been killed by the personnels of 12th Assam Rifles without any reason they are entitled to compensation as prayed for.

6.1. Mr. S. Rupachandra Singh, learned ASG appearing for the Assam Rifles submitted that the allegations made by the petitioners had been specifically denied before the learned District Judge while conducting the enquiry but ignoring the evidence of the witnesses examined on behalf of the Assam Rifles

the finding has been arrived at holding the personnel of 12th Assam Rifles guilty of killing the two deceased persons. Mr. R.S. Reising, learned Sr. GA appearing for the State respondent submitted that the State has no role to play in the above incident and therefore the State Government should have no liability for payment of compensation.

7. We have carefully examined the report submitted by the learned District Judge. In course of post mortem examination, several external and internal injuries were found on the dead bodies of the deceased persons. The opinion of the Doctor is that the deceased persons died because of hemorrhage associated with head injury resulting from multiple firearm injuries. Therefore there cannot be any dispute that both the deceased boys had died after receiving bullet injuries. Witnesses who were examined on behalf of the petitioners supported the claim of the petitioners stating that the boys were killed in the incident that occurred on 2.8.2000 at about 9 p.m. Both the deceased were in a scooter and late in the night they were found dead. Though it is the case of the respondents that some fire arms were seized from their possession, on consideration of the evidence, the learned District Judge disbelieved such claim of the respondents. The analysis of the evidence and findings arrived at by the learned District Judge in the course of enquiry are found to be justified. We, therefore, find no reason to differ with the enquiry report submitted by the learned District Judge.

8. Having held that both the deceased persons were students and had been killed by the personnel of 12th Assam Rifles, the second question that comes up for consideration is whether the petitioners are entitled to compensation and what should be the amount of compensation. Reliance was placed by the learned counsel for the petitioners on the decision of the Apex Court in the case of Ajab Singh and Another Vs. State of Uttar Pradesh and Others, In the said reported case, the Supreme Court granted compensation of Rs. 5.00 lakhs. However, from the facts of the said reported case it appears that the deceased was earning about Rs. 5000/- per month at the time of his death. Another decision is relied upon by the learned counsel for the petitioners in the case of Sukhato Sema-Vs-Union of India vide W.P. (C) No. 506 of 1999 disposed of by the Gauhati High Court on 09.08.2006. In more or less, similar facts the Gauhati High Court had granted compensation of Rs. 3.00 lakhs. Considering the fact that both the deceased persons were students and they had no earning and also on consideration of the fact that the incident occurred almost 14 years back, we are of the view that compensation of Rs. 3.50 lakhs to each of the petitioners would be justified and proper. We accordingly allowed the writ petition and direct the respondents 1, 3 & 4 to pay compensation of Rs. 3.50 lakhs to each of the petitioner within 3(three) months from the date of communication of this judgment and order. If the petitioners are not satisfied with the compensation granted, they can approach the competent court claiming higher compensation.