
(2004) 04 GAU CK 0061
In the Gauhati High Court
Case No : Writ Petition (C) No. 7131 of 2002

Saleha Bewa

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 07-04-2004

Acts Referred:

Citation : (2004) 3 GLT 109

Hon'ble Judges : P.G. Agarwal, J

Bench : Single Bench

Advocate : A.S. Choudhury, R. Mazumdar, I. Hussain, A. Maleque, R. Ali and R. Ahmed, for the Appellant; Govt. Advocate, J. Abedin, A. Ahmed and M. Syrein, for the Respondent

Judgement

P.G. Agarwal, J.—Heard Mr. A.S. Choudhury, learned Sr. advocate appearing for the Petitioner and Mr. J. Abedin, learned Counsel for the Respondent.

2. The dispute in this case is in between the two wives of Late Naushad Ali, who died on 20.7.2000, after retiring as Chowkidar in the P.W.D. The dispute is in respect of sharing of the family pension. The Petitioner Saleha Bewa is the second wife of the deceased; whereas the Respondent Tahiran Bewa is the first wife of the deceased Naushad Ali. The deceased have 7 children through the 1st wife and another 5 children through the 2nd wife. In this case the Petitioner had approached the concerned authorities for release of proportionate family pension to her on the basis of the personal law. However, the concerned authorities in view of Rule 143 (Note) held that the 1st wife of the deceased employee is entitled to family pension. The right to receive the family pension is not in dispute but the fact remains that although the 1st wife may receive the pension amount, she cannot enjoy the entire family pension for herself as under the personal law, the 2nd wife is also entitled to a share in the same. In view of the above, the parties have agreed that let the 1st wife receive 60% of the family pension and the 2nd wife receive the balance 40% of the family pension. In view of the above agreement/consent, the writ petition is disposed of with the

direction to the Accountant General, (A and E), Assam/Secretary to the Govt. of Assam, Finance department to release 60% of the family pension to the Respondent Tahiran Bewa and 40% of the family pension to the Petitioner Saleha Bewa. The writ petition stands disposed of accordingly.