

(2014) 04 MEG CK 0021
In the Meghalaya High Court
Case No : WP(C) No. 248 of 2013

Smt. Saira Hamid Khan

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-04-2014

Acts Referred:

Citation : (2014) 04 MEG CK 0021

Hon'ble Judges : Prafulla C. Pant, C.J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, C.J.—Heard.

2. By means of this writ petition, the petitioner has sought writ in the nature of mandamus directing the respondents to release family pension as well as death-cum-retiral dues of Late Abdul Hamid Khan.

3. The brief facts of the case are that Abdul Hamid Khan was a Havildar (GD) with Assam Rifles, Shillong. He is said to have died on 31.12.2011. The writ petitioner claiming herself to be the widow of the deceased employee has stated that she is entitled to release of the family pension and other death-cum-retiral dues of the deceased. It is admitted in the writ petition that as per the Service Book, the writ petitioner was nominee of her husband only to the extent of 35% of share in the Group Insurance Scheme, and rest was to be paid to the parents of the deceased.

4. In the counter affidavit filed on behalf of the respondents, it has been stated that an Original Suit No. 727/2012 has been filed by the mother of the deceased, alongwith first wife of the deceased and son of the deceased which is pending before the Addl. Civil Judge (Sr. Div) Court No. 2, Aligarh, Uttar Pradesh. A copy of the order dated 27.11.2013 passed by the said Court has been annexed as Annexure I to the counter affidavit, whereby, the application under 7C 2 for interim relief has been disposed of by a reasoned order directing the respondents

not to release the service benefits of the deceased. By the said order, it is also clear that even the present writ petitioner who is defendant No. 4 before the Civil Court of Aligarh has been restrained from taking service benefits. The said suit is stated to be still pending.

5. In the above circumstances, the relief claimed by the present writ petitioner seeking direction against the respondents to release family pension as well as death-cum-retiral dues of the deceased to the petitioner cannot be granted, as the interim order passed by the Addl. Civil Judge (Sr. Div) Court No. 2 Aligarh, UP in Original Suit No. 727 of 2012 is still in operation.

6. Therefore, this writ petition is dismissed summarily without prejudice to the rights of the parties in the lis (Original Suit No. 727 of 2012) pending before the Addl. Civil Judge (Sr. Div) Court No. 2 Aligarh, UP.