

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

ORAL : HON'BLE JUSTICE PRAFULLA C. PANT, C.J.,

Shri K Paul, Advocate, present for the writ petitioner.

Smti S Sen, Advocate, present for the respondent No.1.

Heard.

By means of this writ petition, the writ petitioner has challenged the order dated 03.12.2013, passed by the Central Administrative Tribunal, Guwahati, in Original Application No. 310 of 2012, whereby the Tribunal has directed that the family pension be released in favour of the present respondent No. 1 (who was applicant before the Tribunal).

The brief facts of the case are that Late Probin Banik (husband of respondent No. 1 Smti Rita Rajkhowa Banik) was working as Senior Accountant in the Office of the Accountant General, Meghalaya, who died on 28.01.2011 leaving behind the respondent No. 1 Smti Rita Rajkhowa Banik as her widow, and the present writ petitioner Smti Premoda Banik (mother of the deceased).

It appears that a Title Suit No. 5(T) 2011 was instituted by the mother of the deceased employee (present writ petitioner) against the widow of the deceased (present respondent No. 1) in respect of possession of Flat owned by the deceased. It is pleaded by the respondent No. 1 Smti Rita Rajkhowa Banik, before the Central Administrative Tribunal, Guwahati, by filing Original Application No. 310 of 2012 that on the basis of pendency of the said Title Suit, the respondent No. 2 (Accountant General, A & E, Shillong), has wrongly deprived her pension, gratuity, provident fund etc. payable to her, vide order dated 29.07.2011.

The Tribunal found that the Accountant General, has erred in law in declining the family pension, gratuity and provident fund etc. to the present respondent No. 1, after the death of her husband merely on the ground of the pendency of the Title Suit No. 5(T) 2011.

It is argued before us on behalf of the writ petitioner (mother of the deceased employee) that there was a divorce petition filed by the deceased employee against the present respondent No. 1 as she had deserted him. However, it is nowhere stated that any decree of divorce was passed before the death of the employee dissolving his marriage with the present respondent No. 1. As such in our opinion, merely for the reason that a divorce petition was pending at the time of the death of the employee, does not deprive his widow, of her rights in respect of the family pension, gratuity, provident fund etc. It is nobody case that anyone else was legally wedded wife of the deceased, except the present respondent No. 1.

In the above circumstances, having heard the learned counsel for the parties, we are of the view that the Central Administrative Tribunal has committed no error of law in allowing the application filed by Smti Rita Rajkhowa Banik (present respondent No. 1) for release of family pension.

Therefore, without prejudice to the rights of the parties in the Title Suit No. 5(T) of 2011 (pending before the Assistant to Deputy Commissioner, Shillong), this writ petition is dismissed summarily.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

WP(C) No. 87 of 2013

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri S Dey, Advocate, holding the brief for Shri GN
Sahewala, Senior counsel for the writ petitioner.

Smti T Yangi, Advocate, present for the respondents.

Adjourned at the request of the learned counsel for the
writ petitioner.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

WP(C) No. 187 of 2013

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Adjourned at the request of Shri P Nongbri,
Advocate, for the respondents.

List after three weeks.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

WP(C) No. 317 of 2011

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Adjourned at the request of Shri VK Jindal, Sr.
Advocate, for the writ petitioner.

List this matter on 28.10.2013.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

WP(C) No. 318 of 2011

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Adjourned at the request of Shri VK Jindal, Sr.
Advocate, for the writ petitioner.

List this matter on 28.10.2013.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

LA Appeal No. 1 of 2012

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Adjourned at the request of Shri AH Hazarika, Advocate,
for the respondents.

Passed over for the day.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

Misc. Case No. 102 of 2011

In WA. No. 53 of 2010

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

In view of the order passed in WA. No. 53 of 2010, whereby the said appeal has been dismissed as withdrawn, this Misc. Case also stands dismissed.

JUDGE

(Hon'ble Mr Justice T.N.K Singh)

CHIEF JUSTICE

S.Rynjah

Misc. Case No. 271 of 2013

In WA. No. 53 of 2010

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

In view of the order passed in WA. No. 53 of 2010, whereby the said appeal has been dismissed as withdrawn, this Misc. Case also stands dismissed.

JUDGE

(Hon'ble Mr Justice T.N.K Singh)

CHIEF JUSTICE

S.Rynjah

WA. No. 53 of 2010

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

Mr. B Laithma, Advocate present for the appellant.

Learned counsel for the appellant prays for and is allowed to withdraw this appeal.

Accordingly, this appeal is dismissed as withdrawn without prejudice to the rights of the parties in Title Suit. No. 3 of 2010 pending before the District Council Court.

JUDGE

(Hon'ble Mr Justice T.N.K Singh)

CHIEF JUSTICE

S.Rynjah

WA. No. 20 of 2012

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

Mr. R. Choudhury, Advocate present for the appellant.

Mr. R. Gurung, Advocate present for the respondents No. 1, 2
and 3.

Learned counsel for the appellant prays for and is allowed to
take fresh steps for service of notice to respondents No. 4 and 5 by
Registered Post with AD and Ordinary Post.

List this matter for final hearing after service of notice to
respondents No. 4 and 5.

JUDGE

(Hon'ble Mr Justice T.N.K Singh)

CHIEF JUSTICE

S.Rynjah

WP(C) No. 304 of 2012

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

Mr. A.H.Hazarika, Advocate present for the petitioner.

Mr. S.C.Shyam, Senior Advocate present for the respondents
No. 1, 2, and 3.

Mr. S. Dey, Advocate present for respondents No. 5 and 6.

Adjourned at the request of Mr. S.C.Shyam, Senior Advocate
present for respondents No. 1, 2 and 3.

List this matter on 1-11-2013.

**JUDGE
(Hon'ble Mr Justice T.N.K Singh)**

CHIEF JUSTICE

S.Rynjah

WP(C) No. 359 of 2012

23-10-2013

**HON'BLE THE CHIEF JUSTICE,
and HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH**

Mr. K.Paul, Advocate present for the writ petitioner.

Mr. S.P.Sharma, Advocate present for the respondent-Bank.

Learned counsel for the writ petitioner prays for and is allowed to withdraw the writ petition in terms of the settlement arrived between the parties outside the Court.

Accordingly, this writ petition is dismissed as withdrawn, as prayed for by the writ petitioner. Interim order dated 17-12-2012 passed in Misc. Case No. 508 of 2012 stands vacated.

JUDGE

(Hon'ble Mr Justice T.N.K Singh)

CHIEF JUSTICE

S.Rynjah

MC No. 39 of 13
IN WP(C) No. 20 of 2013

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri S Sen, Advocate, present for the applicant.

Shri K Paul, Advocate, present for the respondent.

In view of the order of the date passed in WP(C) No.
20 of 2013, this Misc. Case also stands dismissed.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

MC No. 88 of 2013
IN COP(C)No.1 of 12

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri BK Deb Roy, Advocate, present for the applicant.

Shri SC Shyam, Sr. Advocate, present for the respondents.

In view of the order of the date passed in Cont. Case(C) No. 1 of 2012 (Misc. Case 88 of 2013), this Misc. Case also stands disposed of.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

MC No. 131 of 2013
IN COP(C)No.1 of 12
IN WA No. 50 of 2010

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri SC Shyam, Sr. Advocate, present for the
applicants.

Shri BK Deb Roy, Advocate, present for the writ
petitioner/respondent.

In view of the order of the date passed in Cont.
Case(C) No. 1 of 2012 (Misc. Case 88 of 2013), this Misc.
Case also stands disposed of.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

MC No. 138 of 13
IN WP(C) No. 20 of 2013

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri S Sen, Advocate, present for the applicant.

Shri K Paul, Advocate, present for the respondent.

In view of the order of the date passed in WP(C) No. 20
of 2013, this Misc. Case also stands disposed of.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

MC No. 171 of 13
IN WP(C) No. 87 of 2013
(Old No. WP(C) 236 of 13)

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri S Dey, Advocate, holding the brief for Shri GN Sahewala, Senior counsel for the writ petitioner.

Smti T Yangi, Advocate, present for the respondents.

Heard.

By means of this Misc. petition (registered as Misc. Case No. 171 of 13), the writ petitioner has sought interim relief in the light of the order dated 13.12.2012, passed by the Apex Court in SLP(Civil) Nos. 28194-28201/2010, directing the respondent authorities to release 50% of the disputed amount payable to the writ petitioner in terms of the Notification No. 32/99 dated 08.07.1999 read with Notification No. 20/2007 dated 25.04.2007.

It appears that the application for interim relief in the writ petition has already been declined by the Gauhati High Court vide order dated 24.01.2013. As such, fresh Misc. Application No. 171 of 2013 cannot be maintained.

Accordingly, this Misc. Case is dismissed as not maintainable.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

MC No. 306 of 13
IN WA No. 33 of 13

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

List after two weeks.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

PIL No. 1 of 2011

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Shri K Paul, Advocate, present for the writ petitioner.

Shri ND Chullai, Sr. GA, present for the respondents No. 1 to 2.

Shri R Deb Nath, CGC, present for respondent No. 5.

Learned counsel for respondent No. 5 prays for and is allowed further three weeks' time to file affidavit-in-opposition/response.

List after three weeks.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13

WA No. 33 of 13
IN WP(C) No. 312 of 2011

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

Smti S Bhattacharjee, Advocate, present for the
appellant.

This is an admitted appeal, in which the notices were
sent to the respondent Smti Selina N Marak.

It is reported that notices sent by Registered Post are
not yet received back after service. One month has not yet
expired.

List after two weeks.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13