

GAHC010209862023



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

**Case No. : I.A.(Civil)/2800/2023**

KUNTI GOSWAMI  
W/O LATE NARAYAN GOSWAMI, R/O KHARKHOWAPARA, P.O.  
DEOMORNOI, DARRANG, ASSAM.

VERSUS

PARUL SAHARIA AND 4 ORS.  
WIDOW OF LT. BISWAJEET GOSWAMI, R/O. BARIGAON, P.O. BARIGAON,  
NO,2, DIST. DARRANG, PIN-784147, ASSAM.

2:THE STATE OF ASSAM

REP. BY COMMISSIONER OF TAXES  
ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES  
DISPUR  
GUWAHATI-781006  
KAMRUP (M)  
ASSAM.

3:COMMISSIONER OF TAXES

OFFICE OF THE COMMISSIONER OF TAXES  
DISPUR  
GUWAHATI-781006  
KAMRUP (M)  
ASSAM.

4:THE SUPDT. OF TAXES

M.B. ROAD  
TANGLA-784525

DIST. UDALGURI (BTR)  
ASSAM.

5:THE UNDER SECRETARY TO THE GOVT. OF ASSAM

FINANCE (TAXATION) DEPTT.  
JANATA BHAWAN  
DISPUR  
GUWAHATI-06

**Advocate for the Petitioner** : MRS. K DEVI

**Advocate for the Respondent** : SC, FINANCE AND TAXATION

Linked Case : WP(C)/7859/2022

PARUL SAHARIA  
WIDOW OF LT. BISWAJEET GOSWAMI  
R/O. BARIGAON  
P.O. BARIGAON  
NO  
2  
DIST. DARRANG  
PIN-784147  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY COMMISSIONER OF TAXES  
ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES  
DISPUR  
GUWAHATI-781006  
KAMRUP (M)  
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JANATA BHAWAN  
DISPUR  
GUWAHATI-06.

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Advocate for : MR. A K DAS  
Advocate for : SC  
TAXES appearing for THE STATE OF ASSAM AND 3 ORS

**BEFORE**  
**HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**20.11.2023**

Heard Ms. K. Devi, learned counsel for the applicant. Also heard Mr. M. Hussain, learned counsel for the opposite party No. 1.

This interlocutory application has been filed by the applicant who claims to be the dependent mother of the deceased employee. The claim of the applicant is that she is also covered under the Provisions of Rules 143 of the Assam Pension Rules as a dependent mother and she is entitled to claim for family pension. Accordingly, this I.A. has been filed seeking impleadment of the respondent No. 6 in the W.P.(C) No. 7859/2022.

The applicant submitted before the Court that the petitioner is not legally married wife and as such no marriage was solemnized which is recognised in law. It is submitted that the applicant who was the mother was

entirely dependent on his son. Consequently, the claims of the petitioner for family pension should not be considered. On the contrary, the applicant as the dependent, mother is entitled for family pension under the provisions of Rule 143 of the Pension Rules.

The petitioner/opposite party No. 1 who claims to be the widow of the deceased employee has filed objection objecting to the prayer made by the applicant seeking impleadment.

The learned counsels for the parties have been heard. Pleadings available on record are carefully perused.

In terms of the amendment carried out to Rule 143 of the Assam Pension Rules, family for the purposes of the Rules includes mother besides the widow. The applicant seeks impleadment on the ground that the petitioner was not legally wedded to the deceased Government Servant and therefore, the applicant has a better claim than the writ petitioner towards the family pension of the deceased Government servant- who was her son. Under the provisions of Rule 143 of Pension Rules, if the petitioner's claim as the widow of the deceased Government Servant is found to be not tenable during the hearing of the writ petition, then the applicant as a mother will be entitled to stake her claim as a family member. As such, the question whether alongwith the surviving widow of the Government servant, family pension would also be payable to the mother is an issue which will require determination in the writ petition which is presently pending disposal. For proper adjudication of the issues involved, this Court is of the considered view that the prayer of the applicant deserves to be allowed.

Accordingly, the I.A. stands allowed. The applicant is directed to be arrayed as party respondent No. 6 in W.P.(C) No. 7859/2022.

The I.A. stands allowed and disposed of.

The opposite party No. 1/petitioner will file amended cause title before the Registry within one week from today.

**JUDGE**

**Comparing Assistant**