

GAHC010050512024



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

Case No. : WP(C)/1425/2024

QUEEN DEORI
D/O LATE UJJAL DEORI
R/O RONGKUP TINIALI
P.O. AND P.S. JONAI, DIST. DHEMAJI, ASSAM, PIN-787060.

VERSUS

THE STATE OF ASSAM AND 7 ORS
TO BE REP. BY THE SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM, DISPUR,
GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

PENSION AND PUBLIC GRIEVANCES DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT

CHENEKUTI
GUWAHATI-3.

4:THE DISTRICT COMMISSIONER

DHEMAJI
P.O AND DIST. DHEMAJI
ASSAM
PIN-787060

5:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY

OFFICER
LAKHIMPUR
DIST. NORTH LAKHIMPUR
ASSAM
PIN-787001

6:THE OFFICER-IN-CHARGE

INTENSIVE CATTLE DEVELOPMENT PROJECT
LAKHIMPUR
DIST. NORTH LAKHIMPUR
ASSAM
PIN-787032

7:THE CIRCLE OFFICER

SISSIRBARGAON

DHEMAJI
P.O SISSIRBARGAON
DIST. DHEMAJI
ASSAM
PIN-787110

8:MRS GINATI DEORI
W/O LATE UJJAL DEORI
R/O VILL- GAIDEORI
J.K. CHARIALI NO. 1

SIRIPANI DEORI
SISSIBARGAON
P.O. JANAKALYAN CHARIALI
DIST. DHEMAJI
ASSAM
PIN-78711

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MS. P UPAMANYU,MR REZABUL HOQUE,MR H I CHOUDHURY

Advocate for the Respondent : GA, ASSAM, MS. M M KOTOKY,SC, A.H and V. DEPT.,SAMIM RAHMAN (R-8),MR SARFRAZ NAWAZ (R-8),A W AMAN (R-8),MR T R SEN (R-8)

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER**Date : 07/11/2024**

Heard Mr. P.K. Roy Choudhury, learned counsel for the writ petitioner. Also heard Ms. M.M. Kotoky, learned Standing Counsel, AH & Vety. Department, Assam, appearing for respondent nos. 1, 3, 5 & 6, Mr. A. Chakraborty, learned Government Advocate, Assam, appearing for the respondent nos. 2, 4 & 7 and Mr. T.R. Sen, learned counsel for the respondent no. 8.

The writ petitioner herein is the daughter of a deceased Government servant i.e. late Ujjal Deori, born through his second marriage. The deceased Government servant had earlier got married with the respondent no. 8 and out of their wedlock, a son was born, who has now attained majority. The writ petitioner is the unmarried daughter of late Ujjal Deori. Therefore, she claims to be entitled to a share in the family pension payable on account of her deceased father. The dispute in this case arose on account of the competing claims between the writ petitioner and the respondent no. 8 as to their entitlement to receive a share in the family pension.

According to the writ petitioner, after the amendment of Rule 143 of the Assam Services (Pension) Rules, 1969, an "unmarried dependent daughter" would be entitled to receive family pension. Mr. Roy Choudhury submits that since his client is an unmarried dependent daughter of late Ujjal Deori and she is presently pursuing her studies in the course viz. 4 Years Bachelor of Technology, Department of Agricultural Engineering at the Assam University, Silchar, hence, as per the amended provision of Rule 143 of the Rules of 1969, she is entitled to receive a share in the family pension. Mr. Roy Choudhury, further submits that since the son of the respondent no. 8 has already attained majority, he would not be entitled to any share in the family pension. As such, the pension amount is now required to be split in equal proportion between the writ petitioner and the respondent no. 8. A Writ of Mandamus be, therefore, issued to the above effect.

The respondent nos. 1, 3, 5 & 6 have filed counter affidavit whereby, they have admitted that as per the amended provision of Rule 143 of the Rules of 1969, the petitioner being the unmarried daughter, is entitled to a share in the family pension.

The respondent no. 4 represented by Mr. A. Chakraborty, learned Government Advocate, Assam, has also filed an affidavit taking more or less a similar stand. But according to the respondent no. 4, the respondent no. 8 has failed to submit the relevant documents including the "*Next of Kin*" certificate for processing the pension claim.

Mr. T.R. Sen, learned counsel for the respondent no. 8 has argued that his client is an old lady

and she is wholly dependent on the family pension. He has, however, admitted in his usual fairness that as per the amended provision of Rule 143 of the Rules of 1969, an unmarried dependent daughter would be entitled to a share in the family pension.

After hearing the submissions made at the Bar and on going through the pleadings, it is clear that the core controversy in this case is between the widow and the unmarried daughter of late Ujjal Deori as regards the share in the family pension. After going through Rule 143 of the Rules of 1969, it is apparent that the rights of the petitioner and the respondent no. 8 to receive their shares in the family pension is unquestionably governed under the amended provision of the Rule 143 of the Rules of 1969. The said provision also makes it clear that both of them would be entitled to share in the family pension in equal proportion. Such claim would, however, be subject to furnishing of requisite documents, as may be necessary under the Rules.

Such being the position, this writ petition is being disposed of by providing that the respondent nos. 2 & 3 shall process the claim of the petitioner and the respondent no. 8 in the light of the amended provision of Rule 143 of the Assam Services (Pension) Rules, 1969, and forward the pension papers to the office of the Accountant General (A&E), Assam, as expeditiously as possible but not later than 60 days from the date of receipt of a certified copy of this order. The proposal to be submitted to also include the proposal for proportionate disbursement of arrear family pension, if any, that might have accrued in the meantime.

It is, however, made clear that compliance of the above time line would be subject to the petitioner and the respondent no. 8 submitting the requisite documents in a time bound manner.

With the above observations, the writ petition stands disposed of.

JUDGE

Sukhamay

Comparing Assistant