

GAHC010217792022



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

Case No. : WP(C)/6946/2022

JHARNA RANI DAS
D/O- LATE AMULYA KUMAR DAS, R/O- VILL.- TULARGRAM PART-II, P.O.
SONAIMUKH, DIST. CACHAR, ASSAM, PIN- 788119.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, GENERAL
ADMINISTRATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
GENERAL ADMINISTRATION DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR
DIST. CACHAR
PIN- 788001.

4:THE ACCOUNTANT GENERAL (A AND G)
ASSAM
MOIDAMGAON
BELTOLA
GUWAHATI-19.

5:THE SECRETARY TO THE GOVT. OF ASSAM
P AND PUBLIC GRIEVANCE DEPARTMENT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR. L R MAZUMDER, MR. A ISLAM

Advocate for the Respondent : GA, ASSAM, MR. S K MEDHI (R-4),SC, GAD,SC, AG

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

17.09.2024

Heard Mr. L.R. Mazumder, learned counsel for the petitioner. Also heard Mr. A. Chakraborty, learned Government Advocate, Assam and Mr. S.K. Medhi, learned Standing Counsel, Accountant General for the respondent No. 4.

2. By filing this petition under Article 226 of the Constitution of India, the petitioner is challenging the impugned Orders dated 12.07.2022 and 29.07.2022, whereby the Deputy Secretary to the Government of Assam, General Administration Department and Additional Deputy Commissioner, Cachar, Silchar respectively rejected the prayer of the petitioner for pension in favour of the dependent divorcee daughter.

3. The case of the petitioner is that the father of the petitioner late Amulya Kumar Das, who was a Senior Assistant in the Office of Circle Officer Sonai Revenue Circle, Cachar died-in-harness on 30.05.2006 leaving behind his wife and 6 sons and daughters including the petitioner, who was married with one Dipon Das on 12.05.2005.

4. It is the further case of the petitioner that upon the death of her father, her mother was granted family pension on account of death of her deceased husband and thereafter, when her mother expired on 04.08.2021 leaving behind

the petitioner as sole dependent, as she was already divorced by her husband on 18.08.2021, the petitioner sought grant of family pension. However, the Deputy Secretary to the Government of Assam by a letter issued on 12.07.2022 rejected the said prayer for family pension. Pertinent that thereafter, the respondent No. 3 also by Order dated 29.07.2022 rejected the prayer of family pension in favour of the petitioner. Situated thus, the present writ petition has been filed.

5. Mr. L.R. Mazumder, learned counsel for the petitioner submits that the order of the respondents rejecting the prayer for family pension to the petitioner on the ground that there is no provision of grant of family pension to the divorcee daughter is absolutely misconceived and therefore, the prayer sought in this writ petition warrants to be allowed.

6. He further relies upon the decision of this Court in the case of *Hasiba Begum Vs. The State of Assam and 4 Ors.*, reported in *WP(C) No. 8395/2019*, wherein this Court after considering the relevant provisions applicable in the field has held that a divorced daughter, if was, dependent on the deceased person is entitled to the family pension.

7. Per contra, Mr. A. Chakraborty, learned Government Advocate submits that the authorities have rejected the grant of family pension to the petitioner as she is a divorced daughter in terms of the Notification dated 09.08.2018.

8. I have given my prudent consideration to the arguments made by the learned counsels for the parties and have perused the relevant records.

9. In the present case, it appears that on 18.08.2021, the Family Court,

Cachar, Silchar had dissolved the marriage of the petitioner with one Dipon Das by decreeing the divorce on compromise.

10. It further appears that thereafter the petitioner has been leaving with her mother, who was enjoying the benefit of family pension after her husband had passed away.

11. It further appears that upon the death of the mother, the petitioner applied for grant of family pension, which was rejected by the impugned orders on the ground that a divorced daughter is not entitled for family pension.

12. The issue which arises for consideration in the present case is whether a divorced daughter is entitled for family pension in terms of the Notification dated 09.08.2018.

13. It appears that this Court had already considered the said issue in the case of *Hasiba Begum Vs. The State of Assam and 4 Ors.*, reported in *WP(C) No. 8395/2019* and rendered its Judgment & Order on 30.11.2021, whereby this Court has held that a divorced daughter if was dependent on her father/mother, i.e., deceased pension holder, she is entitled to family pension.

14. Paragraph No. 31 of the aforesaid Judgment is reproduced hereunder for ready reference:-

“31. This Court is of the view that since the intention of the Legislature is to support a dependent daughter who is unmarried and the emphasis is on the dependency of such daughter upon the deceased Government Servant, the same benefit may be extended to a divorced dependent daughter. This Court is

of the view that there will not be a major difference between an unmarried or a divorced daughter as the pivotal ground is the ground of dependency. This Court has also noticed that being an unmarried daughter, per se shall not make such a daughter eligible for the family pension and it would be incumbent upon such unmarried daughter to establish her dependency on the deceased Government Servant, juxtaposition a divorced daughter, such obligation would still remain and may be perhaps with some additional conditions connected to receipt of alimony etc. which has been indicated above. In the instant case, this Court has also noticed that the divorce was on 24.09.2014 and the Scheme had undergone the amendment on 14.09.2017 and the death of the mother was on 17.10.2018. Therefore, there is no manner of doubt regarding the applicability of the amended Scheme in the context of the various dates of the present case."

15. Reading of the aforesaid judgment apparent that the issue involved in this writ petition is squarely covered by the said Judgment & Order dated 30.11.2021.

16. Accordingly, the instant writ petition is disposed of in terms of the aforesaid judgment of this Court in WP(C) No. 8395/2019 with a direction that the petitioner, who is a divorced daughter and was dependent on her deceased mother is entitled to the family pension, subject to the condition that the authorities may be satisfied on the dependency factor by incorporating additional queries, as may deem fit and appropriate.

17. The impugned Orders dated 12.07.2022 and 29.07.2022 are hereby set aside and quashed.

18. Writ petition accordingly stands allowed.

19. No order as to cost.

JUDGE

Comparing Assistant