

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.16365 of 2011**

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Khushboo Devi W/O Late Rama Shankar Dubey, R/O C/O Shri Ram Niwas Singh,  
Tilak Nagar, Suraj Path, Near Patan Dighal, Kankarbagh, Patna-800026

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Director General cum Inspector General Of Police, Bihar
3. The Senior Superintendent Of Police, Patna
4. Treasury Officer, Patna
5. The Accountant General (A&E), Bihar, Birchand Patel Path, Patna

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s :

For the Respondent/s :

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**Date: 27-10-2015**

Heard learned counsel for the parties.

The petitioner has moved the Court for a direction to the respondents to pay 100% family pension to her minor son as he was getting only 50% of the same being the dependent child from the second wife, i.e., the petitioner, of the deceased employee namely Rama Shankar Dubey.



Learned counsel for the petitioner submitted that once the first wife, who was getting 50% family pension, had died, her portion should also revert to the minor son of the petitioner. For the said proposition, reliance has been placed on a Circular of the State Government bearing No. 10059 dated 06.09.1996 of the Finance Department, Government of Bihar which stipulates that the provision in Clause 7 (iii) note (i) of Circular No. 9505 dated 03.10.1964 shall stand amended to the extent that instead of family pension being divided equally among the two surviving wives of the employee, only the first wife shall get 50% and minor children of second wife shall be entitled to the rest 50%.

Learned counsel for the State has drawn the attention of the Court to note (ii) of Clause 7 of the Notification no. 9505 dated 03.10.1964 which clarifies that the eligible minor child shall be paid the share of pension which the mother would have received if she had been alive at the time of death of the officer which clearly goes to show that only 50% pension is payable to the first wife and her minor children upon her death, if any, and thereafter the same shall cease and rest 50% to the minor children from the second wife.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned counsel for the respondents. As

per the existing Rules governing grant of family pension, the petitioner’s minor son cannot receive more than 50% of the family pension which admittedly he is receiving.

Accordingly, the Court does not find any ground to interfere in the matter. The writ petition stands disposed off.

**(Ahsanuddin Amanullah, J)**

Anjani/-

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