

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.986 of 2015

=====

Sangita Devi wife of Late Yogendra Prasad Singh, resident of Village - Pukharahi
Pakari, P.S. - Govindganj, District - East Champaran.

.... Petitioner

Versus

1. The State of Bihar, through Secretary, Human Resources Development
Department, Bihar, Patna.
2. Director, Human Resources Development Department, Bihar, Patna.
3. District Programme Officer, Establishment, Motihari.
4. Block Education Officer, Govindganj, Dist. East Champaran.
5. The Accountant General, Bihar Birchand Patel Path, Patna.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Kumar Samarjeet Singh, Advocate
For the State : Mr. Madhav Prasad Yadav, GP-23
Mr. Meera Singh, AC to GP-23
For the private respondent: Mr. Sanjeev Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-11-2016

Heard learned counsel for the petitioner and the State.

2. The instant writ petition has been filed by the
petitioner for getting fifty percent family pension after marriage of
her daughter, namely, Soni Kumari.

3. It is admitted by the learned counsel for the
petitioner that the petitioner is second wife of late Yogendra Prasad
Singh, a pensioner, who retired as Assistant Teacher, Primary



School, Kuria, Chakia, East Champaran on attaining the age of superannuation on 28th February, 1998. It is also admitted that on retirement, the deceased employee received all his retiral benefits and also received his pension as fixed by the Accountant General, Bihar, Patna. After his death, the family pension was apportioned between Most. Dev Kumari Devi, the first wife of late Yongendra Prasad Yadav and the minor daughter of the petitioner Soni Kumari. Each of them was getting family pension to the extent of fifty percent.

4. It is contended by the learned counsel for the petitioner that said minor daughter Soni Kumari has attained majority and is likely to be married soon and after her marriage the 50 % of family pension on the basis of which the petitioner was being maintained would be stopped and as such a direction be made on sympathetic consideration for payment of 50% family pension to the petitioner.

5. On the other hand, learned counsel for the State has contended that if a government employee marries again during lifetime of his first wife then the second wife would not be entitled to family pension rather her minor children would only be entitled to get the benefit of family pension according to the Bihar Pension Rules. She has contended that the petitioner being the second wife

of late Yogendra Prasad Singh is not entitled to family pension, which is being given to her minor daughter after getting married.

6. Being confronted with this argument of learned counsel for the State, learned counsel for the petitioner concedes that under the relevant rules, the petitioner does not have a case on merit, but since the petitioner is visually impaired, the Court may take a sympathetic view and allow her fifty percent family pension after her daughter is married.

7. I have heard respective counsel for the parties.

8. Once learned counsel for the petitioner concedes that legally the petitioner being the second wife is not entitled to receive family pension, nothing remains to be considered and decided by this Court. This Court cannot pass an order against the statutory Rules.

9. In that view of the matter, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	30.11.2016
Transmission Date	