

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6661 of 2015

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Meera Devi @ Meera Srivastav, wife of Swaroop Lal Srivastav, resident of Line Bazar, P.S.-Khazanchihat, District- Purnia.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Health, Government of Bihar. Patna.
2. The Accountant General (A & E) II, Bihar, Patna.
3. The Chief Medical Officer, Sadar Hospital, Purnea.
4. The District Magistrate, Purnea

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Sharma, Advocate Mr. Anant Kumar, Advocate
For the State	:	Mr. Saroj Kumar Sharma, AC to AAG-5
For the A.G.	:	Mr. K.P.Gupta, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 20-08-2016

Heard parties.

The petitioner seeks direction to the respondent authorities to release family pension after the death of her husband Late Swaroop Lal Srivastav and also his first wife Sunaina Devi.

The husband of the petitioner was appointed on the post of Driver of Government Hospital, Purnea on the sanctioned post on 10.07.1962 and he retired on 31.01.1997. After his retirement, he started receiving his pension but he died on 31.05.2003 leaving behind his two wives, namely, Dunaiyna Devi and Meera Devi @ Meera Srivastav and three sons, namely, Suresh Kumar Srivastav,

Sashi Kumar Srivastav and Ramesh Kumar Srivastav and a daughter, namely, Rekha Devi.

It is contended that petitioner being second wife is co-sharer in the assets of late Swaroop Lal Srivastav along with other members of his family. It is contended that after the death of her husband, the first wife Sunaiyana Devi was getting family pension and she used to stay with Sunaiyana Devi and shared the pension money. However, after the death of Sunaiyana Devi on 16.11.2010, family pension has been stopped. The petitioner claims that she is also entitled for the same as there is no source of income and all sons and daughter of late Swaroop Lal Srivastav are leading their own independent life.

Counter affidavit has been filed on behalf of the State appending therewith a Circular dated 6.09.1996, as contained in Annexure-A. According to the aforesaid Circular, a decision has been taken by the State Government that though previously all the widows were sharing family pension amongst themselves and after the death of one widow, a part of family pension, which was being received by her, would be available to her minor child, however, in view of the subsequent decision of the Government of India circulated vide Memo No.9505 dated 3.10.1964, earlier provisions have been deleted and a fresh decision has been taken that if the employee has married second

time during the life time of the first wife then the second wife would not be entitled for family pension, however, the minor children born from the wedlock with the second wife would be entitled for such pension.

In the case in hand, it has categorically been stated by the petitioner that sons and daughter are leading their own independent life and, thus, it has to be assumed that the petitioner is not living with minor children and in view of the circular, as contained in Annexure-A, the second widow would not be entitled for family pension, in my considered opinion, this writ application has to fail.

Accordingly, it is dismissed.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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