

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6051 of 2014

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Mirsad Khatoon wife of Late Md. Hifzur Rahman, resident of village – Dumri,
P.S.- Sheyampur Bhatahan, District - Sheohar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, Patna
2. The District Education Officer, Sheohar
3. The District Programme Officer Establishment, District- Sheohar
4. The District Provident Fund Officer, Sheohar
5. Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman
For the State : Mr. R.K. Chandram, A.C. to G.P.-19
For the Accountant General : Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-01-2017

Heard learned counsel for the petitioner, learned counsel for
the State and learned counsel for the Accountant General.

2. Pursuant to the order dated 10.01.2017, the District
Programme Officer-cum-District Education Officer, Sheohar is
present before the Court.

3. The petitioner has filed the present writ application for
directing the respondents to pay family pension and GPF amount.

4. It is stated on behalf of the petitioner that Late Hifzur
Rahman, an Assistant Teacher died in harness on 26.1.2010 while
working in the Government Primary School, Dumari, Sheohar. He



was married to one Shamsun Nisha from which there are few siblings. The first wife Shamsun Nisha died in 1994. Thereafter, the said employee married the petitioner Mirsad Khatoon. She has two minor sons from the wedlock. After the death of the government employee the petitioner filed requisite papers in the prescribed form for payment of death-cum-post retiral benefits including family pension to the petitioner, but the respondent no.5 has issued pension payment order no. 201312133452 dated 21.3.2013 in the name of Md. Irfan the eldest son of the employee from first wife and pension payment order no.201312133466 dated 25.3.2013 in the name of Md. Nevale, son of the employee from the petitioner. It is contended that no family pension has been paid to the petitioner.

5. Learned counsel for the petitioner has submitted that under similar circumstance in the matter of Rizwana Khatoon vs. The State of Bihar (CWJC No.4686 of 2009), this Court has held that if an employee married another lady after the death of first wife, the second wife would be eligible for receiving family pension.

6. In reply, learned counsel for the State would submit that during pendency of the application amount of GPF has already been paid in the account of the petitioner and for payment of family pension the District Programme Officer has issued letter no.16 dated 11.1.2017 in the name of Accountant General, Bihar, Patna and



requested to issue family pension in the name of the petitioner Mirsad Khatoon.

7. Learned counsel for the Accountant General, Bihar, Patna would submit that the Accountant General is concerned with authorization of post retiral benefits subject to receipt of pension papers and up-to-date service book with requisite sanction from the department in which the retired employee worked. He would submit that Accountant General had issued authority for payment of family pension and death-cum-retiral gratuity of fifty per cent in favour of Md. Irfan, son of the deceased teacher Late Hafizur Raham from first wife and remaining fifty per cent of the family pension and death-cum-retiral gratuity was issued in favour of Md. Nirale, son of Late Hafizur Rahman from second wife of Mirsad Khatoon on receipt of sanction form. He would submit that from the pleading made on behalf of the petitioner and the State it would be evident that there are minor children from the first wife and in such case the second wife cannot be paid the entire family pension.

8. I have heard learned counsel for the parties and perused the record.

9. Admittedly, the petitioner was married to the deceased employee after the death of first wife. In that view of the matter, the petitioner has to be treated the sole surviving widow of the deceased



to receive part of the family pension along with minor children, if any, of the deceased employee from the first wife. In that view of the matter, this Court directs the respondents to take steps to authorize family pension to the petitioner along with minor children of the first wife, if any, until they become ineligible therefor as per relevant rule whereafter the petitioner would be entitled to receive the entire amount of authorization.

10. The District Programme Officer, who is present in the Court and the Accountant General, Bihar Patna, shall take immediate necessary steps in this regard.

11. With the aforesaid observation and direction, the application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.1.2017
Transmission Date	

