

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1419 of 2013
IN
Civil Writ Jurisdiction Case No. 3694 of 2012**

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Bina Ansari W/O Late M.M. Ansari Resident Of Village- Samardah, P.O-
Shaharkala, P.S- Basantpur, Distt- Siwan.

.... Appellant

Versus

1. The State Of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
 2. The Civil Surgeon- Cum- Chief Medical Officer, Gopalganj, District- Gopalganj.
 3. The Medical Officer, Dighwadubauli, District- Gopalganj.
 4. The Accountant General (A & E), Bihar, Patna
 5. The Treasury Officer, Gopalganj, District- Gopalganj.
 6. The Branch Manager, Central Bank of India, Dighwadubauli Branch, District- Gopalganj.
 7. Mehrun Mishra W/O Late Mohammad Merajuddin Ansari (M.M Ansari)
Resident Of Village- Samardah, P.O- Basantpur, District- Siwan, Pin Code- 841406
- Respondents

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Appearance :

For the Appellant	:	Mr. Rajendra Prasad Singh, Senior Advocate Mr. Navjot Yeshu, Advocate
For the Respondent State:		Mr. Rishi Raj Sinha, SC-19 Mr. Akhilesh Kumar Sinha, AC to SC-19
For the Respondent No.6:		Mr. Abhimanyu Vats, Advocate
For the Respondent No.7:		Mr. Sarvadeo Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 05-05-2017

Heard learned senior counsel for the appellant, who is said to be the second wife of the erstwhile employee, who was a medical doctor and retired way back on 31.03.1997 and died on 12.11.2011. A second marriage was solemnized by the employee in the year 1977, which is permissible insofar as the said employee is concerned, as per the personal law. The real problem has begun



thereafter because the two families, i.e. the two wives, are now at loggerheads trying to corner the benefits of family pension etc.

The writ application was filed by the private respondent No.7, who is said to be the first wife since the authorities decided to divide the pension 50:50. She made the grievance that the notification dated 06.09.1996 of the State Government does not permit a second marriage and no pension is permissible to be paid to the second wife.

The order of the learned single Judge dated 09.10.2012 has taken a very legalistic and strict view of the dispute keeping into consideration the period of superannuation of the employee and, therefore, decided that the government notification dated 06.09.1996, which recognizes only first wife, will have a role to play and the writ application was allowed with a direction to pay the entire family pension to the private respondent. Aggrieved by the said direction and order, the second wife, who was respondent No.7, has filed the present appeal.

After having heard the parties and also keeping in mind that the family pension has remained a contentious issue between the two contesting parties and since then even the State Government has taken note of the fact that the community's personal law permits a second marriage, therefore, family pension is required to be divided



equally between the two wives. Even otherwise, the second wife cannot be permitted to suffer because her marriage with the erstwhile employee is not illegal or invalid, but is very much permissible under the personal law.

In the interest of things, therefore, the impugned order dated 09.10.2012 passed in the writ application is required to be set aside with a direction that the respondent authorities will divide the family pension half and half between the appellant as well as the private respondent no.7, i.e. the first wife.

Appeal is allowed in terms of the above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	AFR
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