

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9491 of 2010

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1. Bibi Najia W/O Late Muslim Miyan R/O Village- Rajpur, P.S.- Kishanpur,
Distt.- Supaul

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Water
Resources Development, Government Of Bihar, Patna
2. The Secretary-Cum-Commissioner Department Of Water Resources
Development, Government Of Bihar, Patna
3. The Engineer-In-Chief Department Of Water Resources Development,
Government Of Bihar, Patna
4. The Chief Engineer, Irrigation Department At Birpur Distt.- Supaul
5. The Superintending Engineer, Department Of Irrigation, Purnea
6. The Executive Engineer, Eastern Embankment Commissionary Department Of
Irrigation, Distt.- Supaul
7. The Sub-Divisional Officer Eastern Embankment Division, Distt.- Supaul
8. The Accountant General, Bihar, Patna
9. The Accounts Officer In The Office Of Accountant General (A&E), Bihar, Patna
10. Bibi Hassina W/O Late Md. Muslim R/O Vill.- Rajpur, P.S.- Kishanpur, Distt.-
Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. AMRIT ABHIJAT Mr. Manoj Kumar Gupta Mr. Upendra Yadav Mr. Nagendra Prasad Yadav Mr. Ran Vijay Singh Mr. Satish Chandra Jha, Adv. Mr. R. N. Jha, Adv.
For A.G. Bihar	:	Mr. Jitendra Roy, Adv.
For the Respondent/s	:	Mr. Chitranjan Sinha, Adv. Mr. J.P.Karn Mr. Jitendra Kumar Roy (Cgc)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 20-06-2018

Heard the learned counsel for the petitioner and counsel appearing on
behalf of the State.

The issue with regard to grant of pension to second wife is involved in this



case. At the relevant time, the matter was referred to the Division Bench and pursuant to the direction of the Division Bench, the State Govt. come out fresh Resolution dated 27th January, 2011, however, the fresh Resolution is also offending as it does not answer the issue formulated by the Division Bench as per the submission of learned counsel for the petitioner.

The learned counsel for the petitioner submitted that the minors are entitled to family pension whether they are born out of first wife or second wife of the deceased employee. The illegitimate child are also entitled for family pension under the Bihar Pension Rules.

Mr. Jha submits that in view of the abovefact that minors are entitled to pension under the Pension Rules, the respondents may be directed to ensure payment of entire pensionary benefit up to the age minors were entitled in terms of the pension Rule. So far as this petitioner is concerned, Mr. Jha, submitted that at present there is no difficulty in granting pension to this petitioner as petitioner is the only surviving widow of the late employee.

In view of the above he submits that instead of referring the matter to the Division Bench for deciding the legality and validity of the Resolution dated 26.06.2011, the Court may as an exception case direct the respondent to work out the pension payable to the minor children of the second wife and also consider the case of the petitioner being only surviving widow for payment of pensionary benefit. Mr. Jha also submitted that there are precedent to the effect and the Courts have issued direction for payment of pension to the second wife as would be evident from the judgment reported in **2017(2) PLJR 920**.

In view of the above, the respondents are hereby directed to ensure payment of pension to the minor child of second wife within a period of two months from the date of receipt / production of a copy of this order. Within the



same time, the respondents are directed to consider the case of the petitioner and take final decision for grant of pension, particularly in view of the fact that the petitioner is only surviving widow and there is decision of this Court reported in 2017 (2) PLJR 920.

With the aforesaid, this writ application is disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	
Transmission Date	--

