

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3623 of 2019

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Shamima Khatoon Wife of Abdul Hafiz Khan Resident of Village-Salempur
P.O.-Itwan, P.S.-Haspura, Distt.-Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Officer cum District Magistrate (D.M.), Aurangabad (Bihar).
3. The District Education Officer (D.E.O.), Establishment, Aurangabad.
4. The District Programme Officer (D.P.O.), Establishment, Aurangabad.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anirudh Kumar Verma, Adv.
For the State	:	Mr. Madhaw Pd. Yadaw, GP-23
		Mr. Rajesh Kumar Sinha, AC to G.P.-23
for the A.G.		Mr. C. Swaroop, Advocate.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 12-03-2019 Heard learned counsel for the petitioner, learned

counsel for the State and learned counsel appearing on behalf of

the Accountant General, Bihar, Patna.

Petitioner is aggrieved by the letter no. 593 dated
12.09.2018 as contained in Annexure- 5 issued by the
respondent no. 4, the District Programme Officer
(Establishment), Aurangabad whereby the family pension being
paid to her has been stopped. The first wife namely Husne Ara
Khatoon @ Husn Ara Khatoon had preferred a writ application
being C.W.J.C. No. 1559 of 2016 before this Court and this
Court after considering the submission of the petitioner who



was respondent no. 6 therein has in its order dated 28.11.2017 observed at para-12 and 13 as follows:-

“12. Having considered the matter, the writ petition stands disposed off with a direction to the authorities to take action in accordance with the findings in the enquiry report, for the law is clear, that it is only the legally wedded wife, who is entitled to family pension and in the event there is a living spouse, the employee cannot marry a second time without due permission from the authorities, which admittedly in the present case, has not been done. Moreover, when both the parties themselves have given statement before the officers and Mukhiya and have also appended their signature/LTI, there is no reason to disbelieve the fact that the petitioner was the first wife and the respondent no. 6 is the second wife, without going into the controversy, as to whether there was divorce from the first wife i.e., the petitioner or the second wife i.e., respondent no. 6, was in illicit relationship with the deceased employee.

13. However, it shall not preclude the



parties aggrieved to move before the Civil Court of competent jurisdiction for obtaining a declaration in their favour, with regard to their rival claims, which shall be decided in accordance with law on merits, without being prejudiced by the present order.”

Considering the nature of controversy between the first wife namely Husne Ara Khatoon @ Husn Ara Khatoon and the petitioner who is the second wife and whether there was a divorce from the first wife, this Court had given a liberty to either of the parties to pursue their claims before the Civil Court of competent jurisdiction for obtaining declaration in their favour with regard to their rival claims. Considering that the pension has been stopped to the petitioner who is the second wife of the late employee Abdul Hafiz Khan the petitioner is at liberty to raise her claim before the civil court of competent jurisdiction.

Writ application is disposed of accordingly.

(Nilu Agrawal, J)

devendra/priyanka

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