

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6104 of 2018

=====

Chanchila Devi W/o late Shadeshiv Sinha R/o Village - Onda, P.S. - Sare,
District - Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Labour Resources
Department, Patna, Bihar
2. The Labour Commissioner, Government of Bihar, Patna.
3. The Labour Superintendent, Biharsharif, Nalanda.
4. The Accountant General, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Binit Kumar
	:	Mrs. Sandhya
	:	Mr. Divya
For the Respondent/s	:	Mr.Anil Kr. Singh- Gp26

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

6 02-09-2019 The present writ petition has been filed seeking a

direction upon the respondents to make payment of the family

pension amount to the son of the petitioner herein.

The brief facts of the case, according to the petitioner,
are that the deceased- employee of the respondents namely
Shadeshiv Sinha, who was an employee in Labour Department,
Government of Bihar, Patna and was posted as Class-III
employee in the Office of the Labour Superintendent, Bihar
Sharif, Nalanda, retired from his services on 01.02.1992. The
retiral dues of the petitioner herein had been paid and he was



also getting pension regularly, however during the interregnum period, the first wife of the husband of the petitioner died on 01.01.2004 and thereafter, the deceased re-married the petitioner in the year 2004 itself and out of the wedlock, a son namely Jitendra Kumar was born on 13.12.2007. Unfortunately, the husband of the petitioner is said to have died on 05.08.2016, hence the present writ petition has been filed, inasmuch as neither the petitioner nor her son is being paid family pension.

The learned counsel appearing for the respondent-State has referred to the scheme of grant of family pension, as detailed in Annexure- A to the counter affidavit i.e. the Family Pension Scheme, 1964, regarding which the State Government has taken a further decision and it has been decided that for the purposes of Family Pension Scheme, the marriage solemnized after the retirement of the employee, would not be considered to be valid and would not be recognized for the purposes of grant of family pension. It is further submitted that there is no proof with regard to the said minor son being born out of the said wedlock, in between the petitioner and the deceased employee.

At this juncture, the learned counsel for the petitioner submits that the petitioner would be obtaining succession



certificate for her and her minor son and then, would approach the respondent authorities, whereafter the respondent authorities should consider atleast the claim of her son for grant of family pension till he attains the age of majority.

Having regard to the facts and circumstances of the case, I deem it fit and appropriate to dispose off the present writ petition with liberty to the petitioner to obtain the succession certificate for her and her minor son, whereafter she would be free to approach the respondent-authorities for grant of family pension to her minor son and the State Government shall decide the case of the petitioner, considering the fact that the aforesaid Circular of the Government, clarifying the Family Pension Scheme, 1964 though impedes the rights of the second wife, whose marriage has been solemnized after the retirement of the employee, however the same does not impede the right of a legitimate child to receive family pension.

The present writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

rinkee/-

U			
---	--	--	--

