

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14794 of 2018

=====

Rajbhawani Devi Wife of late Ramdev Singh, Resident of Village-
Chiknauta,P.O. Chhapra Bahas, Police Station- Sugauli, District- East
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Director in Chief (Health Services) Government of Bihar, Patna.
3. The District Officer, West Champaran at Bettiah.
4. The Civil Surgeon, West Champaran at Bettiah.
5. The Accountant General, Bihar, Patna.
6. Malti Devi Wife of Late Ramdev Singh, Daughter of Narayan Singh
Resident of Village- Semariman, Police Station- Nawalpur, District- West
Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr.Karandeep Kumar, Adv.
For the State	:	Mr.Ajay Bihari Sinha -GA8
For the A.G.	:	Mr. Ram Kinkar Choubey, Adv.
For respondent no.6	:	Mr. Ramagya Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

9 07-09-2020 Heard Mr. Karandeep Kumar, learned counsel for the

petitioner, Mr. Ajay Bihari Sinha, learned G.A.8, Mr. Ram
Kinkar Choubey, learned counsel for the Accountant General,
Bihar and Mr. Ramagya Singh, learned counsel for respondent
no.6 through Video Conferencing.

2. The petitioner seeks, in this writ petition, following
reliefs:-

(i) For commanding the respondents to sanction the
family pension in favour of the petitioner being
legally wedded wife of the deceased husband,



namely, Ramdev Singh;

(ii) For commanding the respondents to make payment of pension in favour of petitioner after cancelling the benefit of pension granted illegally in favour of 2nd wife i.e. respondent no.6 vide P.P.O. No.300721;

(iii) For commanding the respondents to grant all consequential benefits to which the petitioner is entitled after death of her husband;

(iv) For any other relief for which the petitioner is found entitled in the facts and circumstances of the case.

3. The factual matrix of the case is that Ramdev Singh (husband of the petitioner) was superannuated from the post of Compounder from Sadar Hospital, West Champaran, Bettiah. The petitioner was married with Ramdev Singh according to the Hindu Rites and Rituals about 50 years ago. Ramdev Singh after his retirement got pension vide P.P.O. No.300721 and he was getting pension during his lifetime. The petitioner got some dispute with Ramdev Singh and the petitioner filed Maintenance Case No.743 of 2000 in the court of Judicial Magistrate, 1st Class, Motihari for her maintenance. The learned Judicial Magistrate, 1st Class, vide order dated 11.07.2000 directed Ramdev Singh to pay Rs.4,000/- per month to the petitioner, who is legally wedded wife of Ramdev Singh, for her maintenance. The petitioner received her maintenance till the



death of her husband on 19.01.2018 on account of his illness. Thereafter the family pension was fixed in favour of Malti Devi (respondent no.6), who alleged herself to be the second wife of Late Ramdev Singh. When the petitioner came to know that her husband nominated Malti Devi as nominee in his service book, the petitioner filed petition before the Civil Surgeon, Sadar Hospital, West Champaran for grant of pension in her favour but no order was passed and an enquiry was conducted with regard to the validity of the claim of the petitioner and it was found that the petitioner is legally wedded first wife of the deceased pension holder, namely, Ramdev Singh and after due enquiry, it has been directed to pay maintenance amount to the petitioner from the family pension which is being paid to the second wife Malti Devi (respondent no.6) vide P.P.O. No.4-822-22. The Accountant General (A & E), Bihar, Patna issued a letter as contained in Memo No.2564 dated 15.03.2019 addressing the Treasury Officer, Bettiah to make payment of Rs.4,000/- as maintenance to the petitioner from family pension. It is submitted that the petitioner is admittedly the first wife of Late Ramdev Singh.

4. Respondent no.4 (Civil Surgeon, West Champaran at Bettiah) filed counter affidavit stating the facts that Ramdev



Singh retired from the post of Health Worker from Primary Health Centre, Ram Nagar on 30.06.1998 and he died on 19.01.2018. During his lifetime, he got two marriages. Rajbhawani Devi (petitioner) is the first wife and Malti Devi is the second wife. Ramdev Singh, during his service period, made his second wife, namely, Malti Devi as nominee in his service book. After death of Ramdev Singh, the authority slip was issued for family pension in the name of Malti Devi (respondent no.6) and accordingly, Malti Devi is getting family pension. It is submitted that the Senior Accounts Officer, Office of the A.G. (A & E), Bihar, Patna vide his Memo No. Pan-4-821 dated 14.08.2018 issued letter to the Civil Surgeon-cum-Chief Medical Officer, West Champaran, Bettiah to make enquiry in respect of the contention made in the writ petition and make available the said information along with requisite papers for further action. Thereafter the Civil Surgeon-cum-Chief Medical Officer, West Champaran, Bettiah vide Memo No.1837 dated 26.09.2018 directed the In-charge Medical Officer, Primary Health Centre, Ram Nagar to make enquiry with regard to the claim of the petitioner and submit a report. In compliance of the aforesaid letter, In-charge, Primary Health Centre, Ram Nagar vide Letter No.572 dated 08.10.2018 submitted his report along



with pension form and service book of Late Ramdev Singh. Ramdev Singh, during his lifetime, nominated Malti Devi (respondent no.6) and showed her name as his wife in the service book in the list of family members. Ramdev Singh never disclosed the name of the petitioner as his wife in the service book. The fact was kept secret that during the lifetime of Ramdev Singh, a matrimonial dispute was going on between the writ petitioner and Late Ramdev Singh. The writ petitioner was getting maintenance by order of the court till the lifetime of Ramdev Singh. During lifetime of Ramdev Singh, the writ petitioner never claimed as nominee for getting other benefit but after death of Ramdev Singh, when the family pension was fixed in the name of Malti Devi, Rajbhawani Devi (petitioner) made her claim.

5. Respondent No.6, Malti Devi also filed counter affidavit and contested the case stating that she is the legally wedded wife of Late Ramdev Singh. After marriage, she was living with her husband peacefully. She served him when her husband Ramdev Singh was lying on death bed. She performed the last rites of Ramdev Singh. The petitioner was not ever living with Ramdev Singh. Ramdev Singh nominated her (respondent no.6) and accordingly, she got family pension and



only she is entitled to get pension. The law does not permit the petitioner to get her name mentioned in the service book in place of respondent no.6 as nominee and hence, the writ petition is fit to be dismissed.

6. Learned counsel for the petitioner submits that the petitioner is a legally wedded first wife of Late Ramdev Singh but later on when Ramdev Singh ousted the petitioner, Ramdev Singh secretly solemnized second marriage with respondent no.6. Therefore, the petitioner being the first wife of Late Ramdev Singh is entitled to get family pension after death of Ramdev Singh. Ramdev Singh did not perform his second marriage after obtaining permission from his employer. Therefore, the status of second wife in the Hindu Marriage Act during lifetime of his first wife is not recognized and the second wife is not entitled to get pension. The State Government has issued a resolution as contained in Memo No.1549 dated 27.06.2011, clause 3 of which says that if the deceased employee solemnized second marriage with permission of the government, in that event the pension amount can be apportioned equally between the first and the second wife but in the present case, the second wife, who has got no legal status, is not entitled to get family pension. It is further submitted that the



nominee is mere a trustee and on the basis of such nomination, she (respondent no.6) cannot claim herself to be entitled to get family pension. Even respondent no.6 has admitted the status of the petitioner as wife of Late Ramdev Singh. Therefore, the respondents be directed to cancel the family pension granted in favour of respondent no.6 and the respondents be further directed to issue family pension in favour of the petitioner after cancelling of P.P.O. issued in favour of respondent no.6 and the family pension received by respondent no.6 after death of Ramdev Singh be realized from respondent no.6 and the same be paid to the petitioner.

7. Learned counsel for respondent no.6 submits that Late Ramdev Singh, during his lifetime, nominated respondent no.6 as his wife in the family pension paper. Even in the service book, the name of respondent no.6 is mentioned as his wife. Ramdev Singh nowhere stated the name of Rajbhawani Devi (petitioner) as his wife. Therefore, her status of being first wife is not declared by any competent court. It is further submitted that in the case of **Atirazia Devi vs. The State of Bihar & Ors. (CWJC No.2771 of 2008)** this court held that once the status of the first wife is disputed and the husband by ignoring the claim of the first wife nominated his second wife in the service book,



the dispute cannot be resolved in the writ petition and the first wife should file suit for declaration of her status as first wife. The same order has also been confirmed in L.P.A. No.1585 of 2014, but from perusal of the judgment on which learned counsel for respondent no.6 placed reliance is not helpful as the status of the petitioner as first wife of Ramdev Singh is admitted even by respondent no.6.

8. Having considered the submissions of both sides, I find that only question arises for consideration whether the petitioner is entitled to get family pension?

9. The petitioner claimed herself to be the first wife of Ramdev Singh. Admittedly Ramdev Singh superannuated from service on 30.06.1998. The petitioner filed Maintenance Case No.743 of 2000 and the Judicial Magistrate, 1st Class, Motihari by order dated 11.07.2000 held that the petitioner Rajbhawani Devi is the legally wedded wife of Ramdev Singh and directed Ramdev Singh to pay maintenance of Rs.4,000/- per month to the petitioner. Even after retirement of Ramdev Singh, the amount of maintenance was paid every month to the petitioner from the pension amount of Ramdev Singh. After death of Ramdev Singh, on the basis of nomination made by Ramdev Singh, family pension was fixed in favour of Malti Devi



(respondent no.6) but when the petitioner represented, the Accountant General (A & E), Bihar, Patna directed to pay maintenance of Rs.4,000/- per month to the petitioner from the family pension of respondent no.6. It transpires from the counter affidavits and the Annexures that the enquiry was held by the In-charge, Medical Officer, Primary Health Centre, Ram Nagar from where Ramdev Singh superannuated. The In-charge, Medical Officer, Primary Health Centre, Ram Nagar found that Rajbhawani Devi (petitioner) is the first wife of Ramdev Singh but Ramdev Singh did not disclose this fact in his service book or in any paper submitted for grant of his pension after his superannuation. Ramdev Singh disclosed the name of respondent no.6, Malti Devi as his wife and on the basis of submission of such papers after death of Ramdev Singh, family pension was granted to Malti Devi. Malti Devi did not deny the assertions of the petitioner that the petitioner is the legally wedded first wife of Ramdev Singh. In this view of the fact, the Pension Rules provide that the widow is entitled to get pension and any nomination contrary to this Rule is illegal. The nominee is mere a trustee and such nominee cannot claim her right to get pension on the basis of such nomination, particularly in view of the implied admission of respondent no.6



that the petitioner is the legally wedded first wife of Late Ramdev Singh. There is no disputed question of facts and, therefore, the petitioner is entitled to get pension.

10. In the result, the writ petition is allowed. The respondents are directed to cancel the P.P.O. issued in favour of Malti Devi (respondent no.6) and issue a fresh P.P.O. in favour of Rajbhawani Devi (petitioner). The Civil Surgeon, West Champaran, Bettiah (respondent no.4) is directed to realize the amount of family pension already received by Malti Devi (respondent no.6) on the basis of her nomination and the same be paid to the petitioner.

(Prabhat Kumar Jha, J)

Harish/-

U			
---	--	--	--

