

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17805 of 2019

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Parwati Devi W/o Lt. Awadhesh Choudhary Resident of Village- Bhopatpur,
P.o.- Shiris, P.s.- Barun Sonnagar, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, New Secretariat, Patna
2. The District Education Officer Aurangabad
3. District Programme Officer (Establishment) Aurangabad
4. Block Education Officer Aurangabad
5. Accountant General Bihar, Veer Chandra Patel Marg, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Verma
For the Respondent/s : Smt.Binita Singh (Sc28)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

8 24-06-2020 The present writ petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed for payment of family pension to the petitioner herein as also the outstanding dues to be paid to the deceased husband of the petitioner, who though retired on 31.1.2011, but died on 1.1.2019.

Several counter affidavits, supplementary counter affidavits, reply affidavits, rejoinder affidavits etc. have been



filed on behalf of both the parties, however, the dispute has boiled down to the effect that the petitioner is the second wife of the deceased employee and the nomination made by the deceased employee in his pension application is only with regard to his son, namely, Yogesh Chaudhary, hence, the difficult has arisen in making payment of the family pension to the petitioner herein.

However, the petitioner has produced an order dated 19.5.2010, Annexure-P 3 to the supplementary affidavit filed by the petitioner on 28.1.2020, passed by the court of Principal Judge, Family Court, Palamau, Daltonganj, on application made by the petitioner under Section 125 Cr.P.C. against the deceased husband of the petitioner, namely, Awdhesh Chaudhary, for grant of maintenance for herself and for her children. It is apparent from the aforesaid judgment dated 19.5.2010 that the learned court below has come to a finding that the petitioner herein is legally married wife of the deceased, Awdhesh Chaudhary and the earlier husband of the petitioner as also the earlier wife of the aforesaid Awdhesh Chaudhary are already dead and further, the learned court below has also come to a finding that two children have been born out of the wedlock of the petitioner with the aforesaid Awdhesh Chaudhary. In such



view of the matter, the learned court below by the aforesaid judgment dated 19.5.2010 has directed the aforesaid Awdhesh Chaudhary to pay maintenance allowance to the petitioner and her children at the rate of Rs. 8,000/- per month.

Thus, the factum of the petitioner being legally wedded wife of the deceased employee of the respondents is not in dispute.

In such view of the matter, this Court had directed the respondents to ensure payment of the outstanding dues / family pension to the petitioner herein.

In light of the order of this Court passed on various dates, the office of the Principal Accountant General, (A&E), Bihar, Patna has acted in the matter and sent a letter dated 17.6.2020 to the District Programme Officer (Establishment), Aurangabad to send information about the status of the first wife of the deceased employee of the Respondents-State so that steps can be taken to sanction the family pension in favour of the petitioner herein i.e. the second wife of the deceased employee, in response whereof, the District Programme Officer (Establishment), Aurangabad by a letter dated 19.6.2020 has already sent a communication to the Senior Account Officer, Office of the Accountant General, Bihar, Patna, stating therein



that the first wife of the deceased employee had died in the year, 1983 itself and the petitioner herein is legally wedded second wife of the deceased employee, as has been held by the learned Family Court, Palamau vide order dated 19.5.2020 passed in Miscellaneous Case No. 36 of 2007, hence, family pension be sanctioned in favour of the petitioner herein.

The learned counsel appearing for the Accountant General, Sri Ram Kinker Choubey has submitted that the needful has been done by the Accountant General, by issuance of the family pension order in favour of the petitioner herein.

The learned counsel for the petitioner submits that if the family pension order has been issued, the petitioner has got no grievance, however, the respondents-State authorities be directed to make payment of the family pension amount along with arrears.

Having regard to the facts and circumstances of the case, the present writ petition stands disposed of with a direction to the Accountant General, Bihar, Patna that in case, the family pension order has not yet been issued in favour of the petitioner herein, the same should be issued within a period of one week from today, failing which the Accountant General, Bihar, Patna shall not draw his salary and in case, it comes to the notice of



this Court that the Accountant General, Bihar, Patna has committed default in obeying the orders of this Court, appropriate action would be taken against him. Nonetheless, in case, the family pension order pertaining to the petitioner herein, as submitted by the learned counsel for the Accountant General, has been issued, the same should be sent to the State authorities forthwith.

The District Programme Officer (Establishment), Aurangabad is further directed to ensure payment of the family pension, along with arrears, to the petitioner herein within a period of two weeks from today, failing which he shall not draw his salary and appropriate action would be taken against him for disobedience of the orders of this Court.

The writ petition stands disposed of with the aforesaid directions.

(Mohit Kumar Shah, J)

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