

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.136 of 2021

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Ambika Devi @ Chanri Devi, Wife of Late Turanti Sharma, Resident of Ward
No. 3, Banmankhi, Police Station Banmankhi, Purnea, District Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of Department of Homes,
Bihar, Patna.
2. The District Magistrate, Purnea, District Purnea.
3. The Superintendent of Police, Purnea, District Purnea.
4. The thana incharge Banmankhi, District Purnea.
5. The Accountant General, Bihar, Patna.
6. The Treasury Officer, Banmankhi, District Purnea.
7. The Circle Officer, Banmankhi, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anupa Nand Jha, Advocate
For the Respondent/s : Ms. Divya Verma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 15-11-2022

Heard Mr. Anupa Nand Jha, learned counsel for the
petitioner and Ms. Divya Verma, learned AC to AAG-3, for the
State.

2. The present application has been filed seeking a
direction to the respondents to ensure family pension on account of
death of the husband of the petitioner on 13.02.2020.

3. The short facts, which led to the filing of the present
writ application is that the husband of the petitioner was
superannuated from the post of Choukidar in the month of
February, 2017 and he was allowed all the retiral benefits and



thereafter he was getting pension, in the meantime, he died on 13.02.2020, leaving behind the petitioner and four children. He further contended that admittedly the petitioner's husband had solemnized second marriage and one Ramphulia Devi was the first wife, who died on 27.08.2017 and during the life time of Ramphulia Devi, the second marriage was solemnized. He further contended that the name of the petitioner has been mentioned, as one of the nominee in the service book.

4. The case of the petitioner is that after the death of the deceased employee, she made a request to the concerned authorities for grant of family pension, which has never been considered.

5. Per contra, learned counsel for the State referring to the averments made in the counter affidavit submits that the husband of the petitioner, namely, Turanti Sharma, was a Choukidar in Banmankhi Police Station from 01.01.1990 to 31.01.2017 and on his superannuation, he was paid all his retiral dues and pension was started. She further submitted that admittedly the deceased employee was married to Ramphulia Devi and from that marriage Turanti Sharma got a daughter, namely, Soni Devi. Subsequently, during the life time of his first wife, the deceased employee got married to the petitioner. It is further



contended that since the marriage of Turanti Sharma with the petitioner was solemnized during the life time of his first wife, namely, Ramphulia Devi, the same is illegal and void and no relief in the form of family pension can be accorded to her.

6. It is well settled that the second marriage, during the life time of first wife, unless permitted by the personal law of the spouse is void and as such the second wife has no entitlement to death-cum-retiral benefit. However, the children of the void marriage being legitimate and are entitled for proportionate share in the family pension, till they attain the majority.

7. From the materials available on record, it appears that the petitioner is having one married daughter and three sons, out of them, two are minors. At this juncture, when the Court asked from the learned counsel for the petitioner as to whether petitioner has ever filed any representation before the authority concerned, he shown his inability to answer the query.

8. Regard being had to the submissions made on behalf of the parties, the writ application is disposed of with a direction to the petitioner to file a representation before the respondent no.3 along with a copy of this order including the materials in support of her claim as also the genealogy table within a period of four weeks from today. If such representation is filed before respondent



no.3 (Superintendent of Police, Purnea) her claim would be considered in the light of the aforesaid observations made hereinabove and the same shall be disposed of by a reasoned and speaking order preferably within a further period of eight weeks.

9. It is needless to say that if the petitioner/her legal heirs would be found entitled to any part of the family pension, the same would be allowed to her/them within the aforesaid period.

10. Accordingly, the writ application stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	17.11.2022
Transmission Date	NA

