

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9291 of 2020

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Smt. Gayamani Devi Wife of Late Nageshwar Prasad Sharma Resident of Village-Dariyapur Khirauti Police Station-Hilsa, District-Nalanda. Presently residing at Lakhisarai Mohalla-English Ward No.5, North of Lakhisarai Block, P.O. and P.S. and District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director, Health Services, Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Civil Surgeon, Sitamarhi.
5. The Additional Chief Medical Officer, Sitamarhi.
6. The District Investigator T.B. Center, Sitamarhi.
7. The Treasury Officer, Sitamarhi.
8. The Accountant General, Bihar, Patna.
9. Smt. Lalita Sharam Resident of 240, Satswati Nagar, Ring Bandh, Police Station and District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, AG
For the State	:	Mr. Anirudh Kumar Singh, AC to GP-25
For the Respondent No.9:	:	Mr. Abhay Shankar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-10-2023

Heard Mr. Gajendra Kumar Singh, learned counsel

appearing on behalf of the petitioner, Mr. Anirudh Kumar Singh, learned AC to GP-25 appearing on behalf of the State

Mr. Abhay Shankar Singh, learned counsel appearing on behalf of the Respondent no.9 and Mr. Lalit Kishore, learned AG appearing on behalf of the Respondent/s.

2. Learned counsel appearing on behalf of the

petitioner submits that petitioner has already filed Title Petition Suit No.36 of 2022 before the competent Civil Court for redressal of her grievances related to her entitlement to receive pension as the first wife of the deceased employee.

3. Learned counsel further submits that the deceased employee, late Mr. Nageshwar Prasad Sharma, had retired from the post of Health Investigator (T.B.), Sitamarhi on 30.04.2001 and after his death the petitioner, being his legally wedded wife, is entitled for family pension.

4. Mr. Abhay Shankar Singh, learned counsel appearing on behalf of the respondent no.9 has disputed the fact that the petitioner is the legally wedded wife of the deceased employee and submits that he has raised the question that respondent no.9 was married with the deceased employee, therefore, petitioner is not entitled for retiral dues of deceased employee, as well as, family pension.

5. Learned counsel appearing on behalf of the State submits that the remedy before the petitioner and the respondent no.9, with respect to family pension, lies before the competent Civil Court where the petitioner has already availed this remedy claiming herself to be the legally wedded wife of the late Nageshwar Prasad Sharma.

6. Having considered the submissions made by the respective parties, this Court time and again has made it clear that to claim family pension of a deceased government employee, by any woman claiming to be the legally wedded wife of the deceased employee, remedy is before the competent Civil Court. This Court finds that although any woman alleging to be in a relationship with a Government employee, who has not been legally wedded to such employee, is not entitled to any pensionary benefits yet children born out of such relationships are entitled for receiving pensionary benefits under the different heads of the State Government pensionary benefits rules.

7. So far as retiral benefits which have not been paid to the deceased employee, the biological sons and daughters of the deceased employee are entitled for the same, in accordance with several circulars and guidelines of the State Government and the law laid down by the Apex Court in case of **Rameshwari Devi v. The State of Bihar & Ors.** reported in **(2000) 2 SCC 431.**

8. The concerned respondent is directed to forthwith verify about the biological sons and daughters, who have taken birth out of cohabitation from two wives of the deceased employee and make payment of retiral benefits, which have not

been paid to the deceased employee to be distributed, in equal, among the biological sons and daughters of the deceased employee. In accordance with the Government circulars and the law laid down by the Apex Court within a period of six weeks from the date of communication of this order.

9. The State Authorities are restrained from adjudicating with respect to entitlement of the family pension, either of the petitioner or the respondent no.9, in want of any jurisdiction and also considering the fact that that the matter is already pending before the competent civil court.

10. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J.)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.10.2023
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