

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10745 of 2019

Bulbul Devi W/o-Late Mahesh Jha, R/o-Ward No. 13, Pipradih
Jhajha, P.S.-Jhajha, District-Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary Education Deott. Bihar, Patna.
3. The Director Primary Education Bihar, Patna.
4. The District Magistrate, Jamui.
5. The District Education Officer, Jamui
6. The Programme Officer (Estb) Jamui.
7. The Block education Officer, Jhajha, Jamui.
8. The Account General Bihar, Patna.
9. The Treasury Officer, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sinha, advocate
For the Respondent/s	:	Mr.Rajeev Ranjan, AC to GP 20

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 21-06-2023

Heard Mr. Rajesh Kumar Sinha, learned counsel
appearing on behalf of the petitioner and Mr. Rajeev Ranjan,
learned AC to GP 20 for the State.

2. The writ petition has been filed for inter alia
following relief (s) : -

“i. For quashing the letter Pen 12-1066 dt.
18.03.2014, issued by the Officer of Accountant
General, Bihar, Patna whereby and whereunder



refusing the family pension of the petitioner and has been returned the pension papers which has been sent for issuance of authority of granting pension to the petitioner after death of 1st wife namely late Anpurna Devi who was the 1st wife of Late Mahesh Jha, which is contrary to the law laid down by this Hon'ble Court as held that after death of 1st wife, 2nd wife is entitled to get family pension vis-a-vis the survival wife is entitled to get family pension as such the impugned order is fit to be set aside.

ii. Further after quashing the impugned order/letter the respondents may be directed to issue the authority for payments of family pension since 13.06.2013 (date of death of 1st wife) including arrear and interest since 13.06.13 to till the date of actual payment.”

3. The petitioner has been denied family pension on the ground that she is the second wife of the deceased employee.

4. The learned counsel appearing on behalf of the petitioner submits that it is admitted fact that the petitioner is the second wife of the deceased employee, who died on 14.05.1995. The first wife of the deceased employee had illegally been paid retiral dues and pensionary benefit and she was receiving pension. The authorities has not given opportunity to the petitioner to consider her case that the first wife of the deceased employee had died on 12.06.2013 and thereafter the petitioner being the second wife is entitled for family pension.



5. The background of the case is covered by a judgment of this Hon'ble Court reported in **2003 (1) PLJR 408 (Smt. Balkeshari Devi Vs. The State of Bihar)** and also in terms of the Government Circular No.10059 dated 06.09.1996.

6. Learned counsel appearing on behalf of the State submits that the first wife of the petitioner was getting family pension and she died on 12.06.2013. There is no provision under the Bihar Pension Rules or any Government Circular has statutory force as on date to allow family pension to the second wife of the deceased employee. Communication made by the office of the Accountant General (Bihar) to the District Programme Officer (Establishment) as well as to the petitioner denying the entitlement of pension to the petitioner is in terms of the Government Circular as well as the law laid down by this Hon'ble Court.

7. Having considered the rival submissions made by the parties, it is admitted fact that the petitioner is the second wife and according to the Finance Department Memo no.1549 dated 27.06.2011, the family pension is admissible to the second of the deceased employee, only if the marriage had taken place under the permission of the Government.



8. In such circumstances, the petitioner, if so advised, may file a detailed representation before the Director, Primary Education, Bihar, Patna (respondent no.3) to claim her entitlement in terms of the Government Resolution contained in Memo No.1549 dated 27.06.2011 issued by the Finance Department, Government of Bihar.

9. The Director, Primary Education Bihar, Patna (respondent no.3) must consider the representation of the petitioner within a period of eight weeks from the date of this order by verifying the fact from the records as to whether the deceased employee had ever taken permission from the Government before performing his second marriage with the petitioner and in case it is found that such permission had been obtained, the petitioner being second wife of the deceased employee must be given benefit of pension.

10. The present writ petition is accordingly disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.06.2023
Transmission Date	27.06.2023

