

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11315 of 2023

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Asha Devi Wife of Late Dr. Sharda Nand Chaudhary Resident of Mohalla and
P.S. Ram Krishna Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Additional Chief Secretary, Health Department, Bihar, Vikash Bhawan,
Patna.
3. The Director-in-Chief Indigenous Medicines, Bihar, Vikash Bhawan, Patna.
4. The Director, Homeopath Indigenous Medicine, Bihar, Vikash Bhawan,
Patna.
5. The In-Charge Medical Officer, Primary Health Centre, Sahpur, Bhojpur.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pravin Kumar Sinha, Advocate
For the State	:	Mr. Kamlesh Kishore, AC to SC-12
For the A.G.	:	Dr. Anand Kumar, Advocate
		Mr. Ramesh Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 15-09-2023

Heard Mr. Pravin Kumar Sinha, learned counsel
appearing on behalf of the petitioner, Mr. Kamlesh Kishore,
learned AC to SC-12 appearing on behalf of the State and Dr.
Anand Kumar, learned counsel for the Accountant General,
Bihar.

2. Learned counsel appearing on behalf of the
petitioner seeks to file detailed representation before the
Director-in-Chief, Indigenous Medicines, Bihar (Homeopath)-
respondents no. 3 and 4 for her claim for family pension.



Petitioner has stated that she is the second wife. The claim of the petitioner is that her husband had retired in the year 2002 and, thereafter, he was being paid regular pension and he had died in the year 2023 leaving behind the petitioner and her minor son born out of cohabitation from the deceased employee. Learned counsel further submitted that the first wife of the deceased employee had pre-deceased him issueless in the year 2012. The marriage had taken place after due consent of the first wife and the same was communicated to the department and after satisfaction of the department, the marriage was solemnized. Learned counsel further submitted that husband of the petitioner had also informed the department about his second marriage on account of consent of the first wife. Learned counsel further submitted that in alternative, the petitioner's minor son is entitled for pensionary benefits being dependent 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.***

3. Considering the relief(s) sought for in the present writ petition, this Court finds that the same cannot be dealt with in exercise of power under Article 226 of the Constitution,



however, the petitioner, if so desires, may file a detailed representation before the respondents no. 3 and 4 for redressal of the relief(s) as claimed for in the present writ petition.

4. It is admitted position that the petitioner is widow of the deceased employee having a minor son. The first wife of the deceased employee had pre-deceased him in the year 2012 issueless. The authorities are directed to call for the service records including the service book relating to the deceased employee, namely, Late Dr. Sharda Nand Choudhary and examine the same and in case the petitioner is entitled to the relief(s) as prayed for in the present writ petition in view of the several government's circular 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, they must pass a reasoned order with respect to the entitlement of the petitioner for receiving family pension or in alternative the minor son of the petitioner is entitled for pension, in accordance with law.

5. The above exercise is directed to be completed within a period of four weeks from the date of filing of the representation without fail. In case, the respondents no. 3 and 4 find that certain clarification is required, the same may be sought for within the aforesaid period without any delay and the



payments are required to be made forthwith within the aforesaid period.

6. In case the petitioner finds that the authorities have deliberately delayed the matter and have harassed the petitioner further, the petitioner may take legal action against the concerned authority in accordance with law.

7. With above observations and directions, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	19.09.2023
Transmission Date	N/A

