

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16603 of 2022

Manju Devi wife of Late Ganesh Prasad Sah @ Ganesh Sah resident of village English Chichraun, P.S. Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Accountant General, Bihar, Patna.
3. The Superintendent of Police, Sitamarhi.
4. Most. Sandhiya Devi @ Sanjha Devi wife of Late Ganesh Prasad Sah @ Ganesh Sah resident of village English Chichraun, P.S. Sultanganj, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Pravina Kumari, Adv.
For the State	:	Md. Nadim Seraj, GP-5
For the AG, Bihar	:	Mr. Ram Yash Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 28-11-2023

Heard Ms. Pravina Kumari, learned counsel for the petitioner, Md. Nadim Seraj, learned counsel for the State and Mr. Ram Yash Singh, learned counsel for the Accountant General, Bihar.

2. The petitioner by invoking the prerogative writ jurisdiction of this Court has filed the writ petition seeking a direction upon the respondents to sanction and assure half of the family pension in her favour on account of being the second wife.

3. Admittedly, the petitioner is the second wife of late Ganesh Prasad Sah @ Ganesh Sah, who was appointed as a



Constable in Bihar Police on 16.02.1975. However, on account of certain charges, he was put to departmental proceeding and finally dismissed from the service on 19.05.2005. The order of dismissal along with appellate order was challenged by the erstwhile employee in C.W.J.C. No. 15099 of 2011. During the pendency of the afore-noted writ petition, the erstwhile employee died and his legal heirs, including the first wife and the children were substituted. The order of dismissal was finally quashed by the Hon'ble Court vide its order dated 25.08.2018 and the respondents were directed to treat the petitioner in service till the date of attaining his retirement. Further all the death-cum-retiral benefits and family pension have been accorded to the first wife.

4. In order to substantiate the claim, learned counsel for the petitioner submits that earlier, the petitioner had filed a maintenance case bearing Miscellaneous Case No. 152 of 1996 under Section 125 of the Code of Criminal Procedure and the learned Family Court vide its order dated 26.08.1998, has awarded the maintenance in favour of the petitioner and her children (Annexure-1). She further submits that she is acquainted with the fact that there are government circular(s) which prohibits the second wife to claim for family pension in



case her marriage was solemnized in the life time of the first wife. However, under the facts and circumstances as the petitioner has also treated to be wife in the maintenance case and all the more the first wife is her full sister and she was being maintained by her husband, thus under the exceptional circumstances, she may be allowed the half of the family pension.

5. Mr. Nadim Seraj, learned counsel for the State, while refuting the contention of the petitioner, submits across the Board that the law is well settled in this regard that in no circumstances, the second wife whose marriage was solemnized during the life time of the first wife, is entitled for family pension. He drew the attention of this Court to the Circular dated 06.09.1996, issued by the government, which crystallized the present position.

6. He further submits that the Government of Bihar in the Department of Finance vide Memo No. PC-I Misc:-41/92/1-059 dated 06.09.1996 has also notified that in case of settled pension/where the family pension of the deceased government servant has already been disbursed, the same cannot be stopped or reviewed latter.

7. This Court has heard the parties and perused the



materials. Admittedly, the petitioner is the second wife, whose alleged marriage was solemnized during the life time of first wife and after the death of her husband, all the benefits, including family pension have been accorded to the first wife, thus in view of the government circular(s) as discussed hereinabove, no relief can be granted in favour of the petitioner.

8. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01-12-2023
Transmission Date	

