

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22724 of 2018

Mostt. Rahmati Khatoon @ Bibi Khatoon @ Rahamati Khatoon.

... .. Petitioner/s

Versus

The State of Bihar and Ors.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abdul Wadood, Adv.

For the Respondent/s : Mr. Kameshwar Kumar, GP-17

: Mr. Sanjay Kumar, AC to GP-17

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

4 10-02-2023 Heard learned counsel for the petitioner, counsel for the State and counsel for the private respondent no. 5.

Counsel for the petitioner has filed the present writ application seeking direction to the respondent to pay 50% family pension to the petitioner, since the family pension which was being paid to her minor daughter, attains age of 25 years.

Counsel for the petitioner further submits that petitioner is the legally married wife of late Mr. Mehboob Alam, who was Government service and superannuated from the service, according to *muslim* law. He submits that the husband died leaving behind his 2 wives and children, therefore, the first wife is entitled for 50% pension and the second wife is entitled for rest family pension and after marriage of the daughter she is entitled for the family pension, which was being paid to her daughters.

Counsel for private respondent appeared and submits that the present petitioner along with her daughter (Who were minor at that very time) had filed a writ petition bearing CWJC

No. 2599 of 2013, which was disposed off on 28.11.2013, with a direction that minor children of the petitioner, from legally married second wife, are entitled for getting family pension and therefore, a decision has been taken from the department that 50% of the pension will go to the minor children of the second wife and 50% pension shall go to the first wife.

Counsel for the State submits that according to the existing law, the second wife of a government employee, whose marriage has taken place in the lifetime of the first wife, shall not be entitled for any family pension and this rule is independent from the religion.

In this view of the matter, the petitioner, who is admittedly the second wife and in the lifetime of the first wife, shall not be entitled for the family pension, which was stopped due to completion of 25 years of age of her daughter.

With the aforesaid direction, this writ petition is hereby dismissed.

(Dr. Anshuman, J.)

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