

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.721 of 2022

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Guljaro Devi Wife of Late Ram Nath Ram, Resident of Village and P.O.-
Alampur, P.S.- Shivsagar, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director, Education Department, Patna Division, Patna.
5. The District Education Officer, Rohtas at Sasaram.
6. The District Programme Officer, Rohtas at Sasaram.
7. The Block Education Officer, Shivsagar, Rohtas.
8. The Treasury Officer, Rohtas at Sasaram.
9. The Accountant General, Bihar, Patna.
10. The Zonal Manager, Punjab National Bank, Patna.
11. The Branch Manager, Punjab National Bank Raipur Chore, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Advocate with Mr. Jay Prakash Singh, Advocate
For the State	:	Mr. Rajeev Ranjan, AC to GP 20
For the PNB	:	Mr. Mritunjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-10-2024

Heard Mr. Shivendra Kishore, learned Senior Advocate representing the petitioner, Mr. Rajeev Ranjan, learned Advocate for the State as well as Mr. Mritunjay Kumar, learned Advocate for the Punjab National Bank.

2. The petitioner is admittedly the second wife of late Ram Nath Ram, who superannuated on 31.01.2005 from the



post of Assistant Teacher, Government Primary School, Bilaspur, Chenari, Rohtas and subsequent thereto died on 20.05.2012.

3. Drawing the attention of this Court to the averments made in the writ petition and the materials available on record it is contended that the husband of the petitioner had two wives; the first Shivraji Devi died issueless on 23.08.2005; During the lifetime of the first wife, the husband of the petitioner had solemnised second marriage with the petitioner and they blessed with a daughter Pooja Kumari on 23.03.2004, who is still unmarried. Since the first wife predeceased, the erstwhile employee, thus after the death of the erstwhile employee, the petitioner submitted her application before the District Programme Officer, Rohtas for family pension on 20.05.2015. On the said application, the matter was enquired and the Block Education Officer, Shivsagar, Rohtas submitted a report to the District Programme Officer along with the genealogical table and other necessary documents fortifying the aforementioned facts.

4. Learned Senior Advocate adverting to the aforesaid facts firstly contended that the application of the petitioner for grant of family pension is pending since 2015 and till date it has



not been brought to its logical conclusion. It is next contended that the identical issue was under consideration before the Division Bench of this Court in ***LPA No. 72 of 2018 (Sumitra Kunwar @ Sunaina Devi Sumitra Devi vs. The State of Bihar & Ors.)*** reported in ***2019(3) PLJR 307***, wherein the learned Division Bench of this Court having taken note of the resolution of the Finance Department, Government of Bihar dated 06.09.1996 has been pleased to allow the appeal and directed to issue a writ of mandamus to the respondents for revisiting the matter and ensure the family pension to the surviving widow. It would be apposite to quote para-8 of the judgment, hereinafter;

“8. In the instant case, the peculiar fact is that even though there appears to have been a second marriage, but the first wife had already died before the death of the employee himself. Thus, the second wife was the only widow surviving as on the date of the death of the employee and there was nobody else to claim the family pension as the first wife had no children. In the given circumstances therefore, this peculiar case required a different treatment and interpretation in the light of the Resolution dated 6th of September, 1996, quoted herein above, and since the appellant was only surviving widow and wife as on the date of the death of the employee, there is no other prejudice being caused to the Government nor there being a violation of the Resolution dated 06th of September, 1996, the appellant ought to have been extended the said benefit. We do not find any such consideration having been made by the learned single Judge in



the impugned judgment dated 06th December, 2017.”

5. The learned Senior Advocate further contended that the judgment rendered by the learned Division Bench of this Court has also been followed by this Court in the case of ***Indu Devi vs. The State of Bihar & Ors. (CWJC No. 358 of 2018)*** in its decision dated 07.12.2022, wherein this Court placing reliance upon the aforementioned decision had directed to consider the claim of the petitioner who was only the surviving widow at the time of death of the erstwhile employee for family pension. Further reliance has also been placed on a decision rendered by the learned coordinate Bench of this Court in the case of ***Bibi Rashida Khatoon vs. State of Bihar & Ors.*** reported in ***2021 (2) PLJR 92***, wherein the learned Division Bench has directed the respondent authorities to consider the claim of the second wife for family pension, including the arrears of amount, in view of the resolution No. 1549 dated 24.06.2011. The learned Single Judge while parting with the case has categorically held that when the first wife has died issueless, the question of deprivation of family pension to the petitioner does not arise, as on the date of death of the erstwhile employee the petitioner was the only wife of her husband.

6. On the strength of the decision of this Court



aforenoted, the learned Senior Advocate thus contended that the claim of the petitioner ought to be considered in the light of the aforenoted judgments.

7. At this juncture, learned Advocate for the State countering the submissions advanced on behalf of the learned Senior Advocate vehemently contended that the Government of Bihar in the Department of Finance had issued a resolution dated 06.09.1996 which clearly stipulates that during the life time of the first wife, if the deceased employee solemnised second marriage, the second wife is not entitled for family pension in any case. However, undoubtedly the offspring of the second marriage is/are entitled for proportionate family pension and other benefits. Admittedly, the petitioner is the second wife and thus she is not entitled to get the benefit of family pension, is the contention of learned Advocate.

8. Having heard the submissions advanced on behalf of the learned Advocate for the respective parties and taking note of the decisions rendered by the learned Division Bench where in the peculiar circumstances this Court directed the respondent authorities to consider the claim of the petitioner, who was admittedly the sole surviving widow at the time of death of the erstwhile employee, the position is the same in the



case in hand.

9. In that view of the matter, this Court finds, *prima facie*, substance in the submission of the learned Senior Advocate that the case of the petitioner ought to be considered in the light of the aforementioned decisions, which is pending since long.

10. It would be pertinent to observe that in course of argument, the learned Senior Advocate for the petitioner has also contended that the action of the respondents is also bad for the reason that in no circumstance the claim of the petitioner's daughter for family pension could have been denied as the genealogical table submitted by the Circle Officer, Shivsagar, Rohtas clearly suggests that first wife died issueless and from the wedlock of the erstwhile employee and the petitioner they have a daughter, who was at the time of the death of her father was only 8 years old.

11. In view thereof, the writ petition stands allowed with a direction to the concerned respondents to consider the claim of the petitioner and in view of the observations made hereinabove, especially the decisions afore noted, and pass a reasoned and speaking order preferably within a period of twelve weeks from the date of receipt/production of a copy of



this order.

12. In case, the claim of the petitioner or her daughter finds favour, necessary family pension/other remaining dues shall be paid within the aforementioned stipulated period by keeping in mind that the due benefits shall be effected with effect from the date of death of the erstwhile employee.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.10.2024
Transmission Date	

