

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11083 of 2022

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Smt. Sunaina Devi @ Sunaina Devi Widow of (2nd Wife) Late Sita Ram Mandal, resident of Village and P.O.- Rangra, P.S. - Rangra Chouk, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The General Manager cum Chief Engineer, South Bihar Power Distribution Company Ltd. (PESU) Patna.
2. The Chief Engineer (Electrical), South Bihar Power Distribution Company Ltd. (PESU), Patna.
3. The Executive Engineer (Electrical), South Bihar Power Distribution Company Ltd. (PESU), Patna.
4. The Senior Accounts Officer, South Bihar Power Distribution Company Ltd. Patna.
5. The Accounts Officer, Electric Supply Sub-Division, Bankipur, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh. Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 01-07-2024

Heard Mr. Rajesh Kumar Pandey, learned advocate for the petitioner and Mr. Kunal Tiwary, learned advocate representing the South Bihar Power Distribution Company Ltd. Patna.

2. The petitioner admittedly is the second wife of the erstwhile employee seeking quashing of the letter no. 962 dated 09.05.2022 issued under the signature of respondent No. 1 rejecting the claim of the petitioner for distribution of the pension of her husband. Learned advocate for the petitioner



contended that the marriage of the petitioner was solemnized with the permission of the first wife of the petitioner's husband because despite passage of time the first wife could not be blessed with any issue. A marriage certificate duly solemnized in a temple has also been brought on record *vide* Annexure 2. On the basis of the aforesaid facts, the petitioner had submitted a representation before the concerned respondent authorities which finally came to be rejected by the General Manager-cum-Chief Engineer, PESU Region, Patna. All the children are major.

3. Learned advocate for the respondent Power Distribution Company Limited straightway drew the attention of this Court to a decision of the coordinate Bench in the case of **Lalita Devi vs. the State of Bihar**, the copy of which has been brought on record by way of Annexure-A to the counter affidavit.

4. The contention of the respondents is that admittedly, the petitioner is the second wife whose marriage has been solemnized during the life time of the first wife and as per provisions of Bihar Pension Rule 1950 she is not entitled to family pension. However, he fairly submits that only the minor offspring of the second wife are entitled for the family pension in case there is a dispute regarding distribution of family



pension between the two wives. It is also contended that any marriage solemnized after commencement of the Hindu Marriage Act shall be null and void if the marriage is solemnized between any two Hindus when either of the parties has spouse living at the time of marriage. The law on the issue raised in the writ petition has been answered in umpteen number of cases wherein the Court held that second wife, who marries an employee having a spouse living at the time of marriage would not be entitled to receive family pension. The learned coordinate Bench of this Court in the case of Lalita Devi (supra) has highlighted the provisions of the Hindu Marriage Act, 1955 has held in clear terms that any marriage solemnized after the commencement of this Hindu Marriage Act shall be null and void if the marriage is solemnized between any two Hindus when either of the spouse living at the time of marriage. Further, the Hon'ble Court have also considered the Family Pension Rule under the Bihar Pension Rules, 1950 for the State Government Employees, as also the Finance Department Resolution No. PC-1-9-16/87-1853 F dated 19th April, 1990 and taking note of the definition of family for the purpose of family pension scheme held that it is the first wife, who have claimed over the pensionary rights over the deceased employee even if the



deceased employee had married the petitioner during the lifetime of his first wife, the same would be nothing but a bigamous marriage, which would not confer any right upon the second wife to receive family pension.

5. Considering the rival submissions made on behalf of the parties and taking note of the admitted fact that the petitioner is the second wife whose marriage was solemnized in the life time of first wife and the offsprings are major, this Court does not find any merit in the writ petition.

6. Accordingly, writ petition stands dismissed.

(Harish Kumar, J)

Prakash/-

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CAV DATE	
Uploading Date	
Transmission Date	

