

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3165 of 2025

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Mithu Das Wife of Late Ganauri Das Resident of Village-Orai, P.S.-Puraini,
District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through its the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Principal Secretary, Home Department (Jail), Government of Bihar, Patna.
3. The Joint Secretary, Home Department (Jail), Government of Bihar, Patna.
4. The Inspector General Jail and Reforms Services, Bihar, Patna.
5. The Jail Superintendent, Sub Jail, Benipur, District-Darbhanga.
6. The Accountant General of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate Mr. Atul Kumar, Advocate Ms. Isha Mishra, Advocate
For the State	:	Mr. Anwar Karim, AC to GP-10
For the A.G.	:	Mr. Ram Yash Singh, Advocate Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 19-09-2025 Learned counsel for the petitioner and learned
counsel for the respondents are present.

2. Learned counsel for the petitioner submits that the petitioner is the second wife of Late Ganauri Das, who retired from the post of Deputy Jailer in the Home Department, Prisons, Government of Bihar. The first wife of Ganauri Das, Late Makho Das @ Lakho Devi, is no more alive, and according to the petitioner out of her wedlock with the deceased employee, she has three children i.e. two unmarried daughters and one



minor son. Accordingly, the present petition has been filed seeking grant of family pension.

3. It is further submitted by the learned counsel for the petitioner that the respondents had previously considered the petitioner's claim and, referring to the circular contained in Letter No. 1059 dated 06.09.1996, rejected the claim on the ground that the petitioner's marriage was solemnized during the subsistence of the first marriage of the deceased employee, and therefore, the petitioner was not found eligible for family pension. However, in the changed circumstances, since both the deceased employee and his first wife have passed away, and one minor son and two unmarried daughters, all legitimate children of the deceased, continue to be surviving dependents of Late Ganauri Das, their rights are still protected under law. In terms of the judgment rendered by the Hon'ble Apex Court in the case of ***Radha Devi v. Chief General Manager, SECL*** reported in ***2017 SCC OnLine Chh 1853***, wherein the Hon'ble Apex Court held that--

“Position of Radha Devi as a ‘spouse’ is not really disputed as such by the respondent, SECL, except on the ground that her marriage was solemnized with Jay Narayan Maharaj during the subsistence of his first marriage.

We would, in these circumstances,



having regard to the peculiar facts of the case and in order to do complete justice, observe that Jay Narayan Maharaj and Radha Devi had lived and cared for each other, post the death of Ram Sawari Devi @ Sawari Devi on 20.04.1984. Radha Devi at the old age should not be denied the 'status of spouse', which entitles her to receive family pension. This would help her live with dignity and help her financially. In view of the aforesaid position, we exercise our power under Article 142 of the Constitution of India and direct that Radha Devi shall be paid family pension with effect from 01.01.2010 till today on or before 31.12.2024. She will receive family pension till her death.

Radha Devi will furnish all details and particulars to the Manager, SECL, and complete the formalities within a period of eight weeks from today. In case the payment of arrears is not made within the said period, the respondent, SECL, will be liable to pay interest at the rate of 8 % per annum from the date of this order till the date of actual payment.

Recording the aforesaid, the appeal is allowed and disposed of."

4. In the present case, the respondents, as well as the widow petitioner, do not have any record to show that such permission was sought by the deceased employee from the



department during his lifetime. Still, this Court, in order to protect the constitutional rights of this petitioner and the legitimate children, holds that the order dated 03.05.2024, as contained in Letter No. 3450 appended as Annexure-P/12, is unsustainable in law because, admittedly, Late Ganauri Das and Mithu Das had lived and cared for each other. Post the death of Late Makho Das @ Lakho Devi, Mithu Das, at an old age, should not be denied the ‘status of spouse,’ which entitles her to receive a family pension that would help her live with dignity and financially strengthen her. Accordingly, the impugned order is set aside, and the authorities are directed to consider the claim of the petitioner, protecting the rights of the minor children, and to take a conscious and sympathetic decision within six weeks of the filing of the representation by the petitioner.

5. Accordingly, the instant writ application stands disposed of in above terms.

(Ajit Kumar, J)

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