

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9944 of 2022

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Fulmati @ Fulmati Devi, W/o Late Uma Ram, Resident of Village- Bheriya,
P.S. - Gopalganj, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Department of Finance, State of Bihar, Patna.
3. The Director, Primary Education Government of Bihar, New Secretariat, Patna.
4. The District Education Officer, Gopalganj, District - Gopalganj.
5. The District Programme Officer (Establishment), Gopalganj, District - Gopalganj.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Pratap Singh, Advocate
For the Respondent/s	:	Mr. Kameshwar Kumar, GP- 17
		Mr. S. K. Ranjan, AC to GP- 17
For the AG, Bihar	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 07-08-2025

Heard the parties.

2. The petitioner has approached this Court seeking a direction upon the respondent authorities to provide proportionate family pension to her by dividing in two equal shares.

3. The facts are admitted that the petitioner was solemnized marriage with the erstwhile employee during the life time of his first wife, but before entering into the service of the erstwhile employee.



4. It is the contention of the petitioner that since both the wives have been residing together with the erstwhile employee, he had filled up the pension papers, disclosing in column 19 the names of the petitioner along with his first wife. Based upon which, a claim has been made before this Court to extend the proportionate family pension.

5. A counter affidavit has been filed on behalf of the State respondent authorities as well as Accountant General.

6. It has been categorically stated by the concerned respondent that the law in this regard is well settled that second wife is not entitled for family pension if second marriage is solemnized during the life time of the first wife. Further the Finance Department vide letter no. 1549 dated 27.06.2011 allowed distribution of family pension equally among surviving widows, if second marriage is solemnized after due sanction from the Government. The Government will give such sanction, only if the personal law governing the marrying parties allows and there is other reason for doing so.

7. It is also submitted that the Hon'ble Apex Court in the case of **Rameshwari Devi Vs. The State of Bihar & Ors.**, reported in, **2000 (2) SCC 431** has held that as second marriage solemnized by a Hindu during life time of the first



wife is void under the Hindu Marriage Act, 1955 and thus the second wife is not entitled for family pension.

8. This Court also in the case of **Dulari Devi Vs. The State of Bihar & Ors.** (C.W.J.C. No. 14389 of 2019) has held and observed that the aforesaid resolution dated 27.06.2011 is only applicable to the Muslim employees and benefit could not be extended to the Hindu employees.

9. Learned Advocate for the petitioner refuting the contention of the learned Advocate for the State submits that the case of the petitioner is on different footing, as the marriage of the petitioner was solemnized with the erstwhile employee prior to entering into the service and as such he seeks permission to withdraw the writ petition with a liberty to approach before the respondent Director, Primary Education Government of Bihar.

10. On the prayer made by the petitioner, the present writ petition stands disposed off with the liberty aforesaid.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.08.2025
Transmission Date	NA

