

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10753 of 2022

Chandrakali Devi Wife of Late Pramod Prasad Patel, Resident of Village-
Bhitahan, P.O. Bhitahan, P.S. Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Superintendent, Government Medical College, Bettiah, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Alka Singh, Adv.
For the Respondent/s : Mr.Binod Kr. Yadav (SC18)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

5 08-05-2026 Heard learned counsel for the petitioner and the
Respondents-State.

2. The instant writ petition has been preferred for the
following relief(s):-

“(i) To issue an appropriate writ preferably in the nature of Mandamus Commanding upon the Respondent authorities to pay to the petitioner entire retiral benefits including Family Pension accrued in her favour after death of her husband namely Pramod Prasad Patel who died in harness on 12.11.2021 while serving Government Medical College, Bettiah as Class IV employee.

(ii) To award suitable interest on



the delayed payment of retiral-cum-death benefits of her late husband.

(iii) To grant any other relief(s), for which the Petitioner may be found entitled to in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that on the basis of the compromise arrived with the legitimate children of first wife and this petitioner, who is said to have married with the deceased employee after the death of the first wife, the present petitioner claiming to be the second wife submits that the pensionary benefits got divided between them and the petitioner is said to have received an amount of Rs. 6,27,914/- as against GPF and rest other benefits were extended in favour of the legitimate children of the first wife.

4. In the present writ petition, the petitioner who is the second wife claims family pension after the death of her husband on 12.11.2021. It is the case of the petitioner that during life time of the first wife, the petitioner had not contracted any marriage whereas the said marriage had taken place only after the death of the first wife and, therefore, she is legally wedded wife and sole surviving wife to receive family pension.

5. Learned counsel for the petitioner relied upon the



judgment of Hon'ble Division Bench rendered in ***L.P.A. No.72 of 2018, (Sumitra Kunwar @ Sunaina Devi @ Sumitra Devi v. The State of Bihar and Others)*** which is being reproduced hereunder :-

"5. In order to understand the controversy, we may point out that the Family Pension Scheme as was promulgated and revised by the State Government from time to time earlier contained a provision that where an employee survived by more than one widow, the pension will be paid to them in equal share. This is evident from the extract of the revised provisions contained in the Finance Department's Resolution dated 19th of April, 1990 in respect of the Family Pension Scheme promulgated with effect from 1964.

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7. A perusal of the same would indicate that the earlier resolution was taken notice of and an amendment was made that even if an employee consummates a second



marriage during the subsistence of the first marriage and the first wife is surviving, then in that event the second wife will not get family pension but her illegitimate children would be entitled to the same.

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 and different treatment 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."

6. Be that as it may, in order to allow the authorities to adjudicate the claim of family pension, it is required that the concerned authorities of the department would secure attendance of all legitimate claimants including this petitioner and after securing their presence and with the aid of supportive materials and the benefits which is said to have been extended in favour of this petitioner as per compromise arrived, the entitlement with regard to family pension shall be adjudicated and once it is found that the petitioner's grievance is genuine, then there should not be any hesitation in extending the family pension for which she is legally entitled as per the dictum of Hon'ble Division Bench and as also the provisions of Bihar Pension Rules, 1950.

7. Insofar the issues of compassionate appointment which is required to be extended to the dependents of the



deceased employee, as would be evident from the counter affidavit, the issues are pending before the District Magistrate, Bettiah, West Champaran, it is accordingly, directed that the District Magistrate would take a final decision by ensuring the same to be placed before the appropriate Committee, which is constituted under the Compassionate Appointment Guidelines, issued by the State Government. Once such matter is placed before the Committee, the same shall also be adjudicated and the persons in whose favour the mandate is given for appointment on compassionate ground, the same shall also be accordingly, directed in accordance with law. With regard to the adjudication of family pension, all the exercise shall be completed within a period of two months from the date of first appearance and appropriate representation made in her behalf.

8. The writ petition stands disposed of.

9. Interlocutory Application, if any, shall also be deemed to be disposed of.

(Ajit Kumar, J)

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