

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16959 of 2023

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Rekha Devi Wife of Late Siya Sharan Singh Resident of Village-Bandiha,
P.O.-Rani Parti, P.S.-Rosera, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Vikas Bhawan, Patna.
2. The Director, Primary Education, Vikas Bhawan, New Secretariat, Patna.
3. The Accountant General Office of the Accountant (A and E) Bihar Virchand Patel Road, Patna.
4. The District Magistrate, Samastipur.
5. The District Programme Officer (Establishment), Samastipur.
6. The Block Education Officer Block, Shivaji Nagar, Rosra Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Prasad, Advocate
For the Respondent/s : Mr. Jitendra Kumar Roy 1 (SC-13)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

7 08-05-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The writ petition has been filed for the following
reliefs :-

(i) That to issue an appropriate writ/s, order/s, or direction/s in the nature of mandamus to the respondents to pay family pension to the petitioner as early as possible and to pay the same to the petitioner on month to month basis.

(ii) That any other relief or reliefs regarding non payment of the family pension to the petitioner from the date of death of her husband and the difference money which was not paid to the petitioner as her son got only ½ part of the family



pension for which the petitioner be found entitled in law be granted to her.

3. Learned counsel for the petitioner submits that the petitioner's husband was a teacher in Government Middle School Rani Parti, Cricle Shivaji Nagar, Samastipur, who retired from service on 31.01.2002 and died on 28.05.2009 and his second wife, namely, Rakha Devi had five (5) children. It is the case of the petitioner that first wife, namely, Bhikhari Devi died on 16.03.2007, who was issue-less and second marriage was solemnized with the consent of the first wife.

4. Learned counsel for the petitioner, by referring to Annexure-P/6, which is the PPO issued by the Office of Accountant General, Bihar, Patna submits that the photographs which is affixed in the PPO, would go to show that the petitioner's photo is also available in the photographs, as a second wife which has been placed on record by the Office of Accountant General and therefore, there is no dispute with regard to this petitioner being the second wife of the deceased employee.

5. At this stage, learned counsel for the petitioner, by relying upon the Hon'ble Division Bench judgment in ***L.P.A. No.72 of 2018, Sumitra Kunwar @ Sunaina Devi @ Sumitra Devi v. The State of Bihar and Others***, submits that if before



the death of the deceased employee, the first wife has already died and the second wife is only surviving widow on the date of death of employee and there is nobody else to claim the family pension, in such event, the second wife, who is said to have contracted the marriage to the deceased employee, would be entitled to family pension. For buttressing his submission, counsel for the petitioner has relied upon the relevant portion of the aforesaid judgment, which is extracted 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.

...

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 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.”

6. On the other hand, learned counsel for the State, on going through the dictum of Hon’ble Division Bench, submits that factually the case of the present petitioner is squarely covered by the aforesaid judgment and therefore, necessary directions can be issued.

7. Considering the aforesaid facts and circumstances, and the fact that the petitioner is the only surviving wife of the deceased employee, the concerned authorities are directed to process the petitioner’s claim for grant of family pension, strictly in consonance with the parameters laid down in the case



of Sumitra Kunwar (*supra*). If, upon verification, the facts of the petitioner’s case are found to be similar to those of the appellant in the aforesaid L.P.A., and the petitioner’s case falls within the said parameters, necessary orders shall be passed and all consequential benefits, to which the petitioner is entitled as the only surviving wife for the purpose of family pension, shall be granted within a period of four weeks from today.

8. Accordingly, the writ petition stands disposed of.

(Ajit Kumar, J)

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