

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14389 of 2019

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Dulari Devi wife of Late Radhuvir Ram R/o Village-Nirmali, P.S. Nirmali,
District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education,
Bihar, Patna
2. The District Magistrate, Supaul
3. The District Education Officer, Supaul
4. The District Programme Officer District Education Officer, Supaul
5. The Treasury Officer Nirmali, District-Supaul
6. The Accountant General Bihar, Patna
7. The Senior Accounts Officer Office of Accountant General, Bihar, Patna
8. Maha Devi Wife of Late Radhuvir Ram R/o Village-Nirmali, P.S. Nirmali,
District-Supaul

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Murari Narain Choudhary Mr. Vijay Kumar
For the State	:	Mr. Ashutosh Ranjan Pandey (Aag15) Mr. Rakesh Narayan Singh, AC to A.A.G.15
For the Accountant Gen.:		Dr. Anand Kumar
For the Respondent – 8	:	Mr. Abhay Kumar Thakur Mr. Arunendra Kumar Thakur Ms. Sukriti Kumari

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 22-03-2021

Heard learned counsel for the parties.

2. The present writ petition has been filed for quashing of office order, contained in letter no. 4123 dated 13.03.2019, issued under the signature of Senior Accounts Officer, Bihar, Patna (Respondent no. 7), whereby the Treasury Officer, Nirmali, District – Supaul (Respondent no. 5) has been directed to make



payment of the family pension only to the first wife of the deceased employee Raghuvir Ram namely Maha Devi (Respondent no. 8), ignoring the claim of this petitioner, who claims to be second wife of deceased Raghuvir Ram, with a further direction to respondents to make payment of family pension to this petitioner also taking into account that she is one of the widow of her deceased husband, having no source of her livelihood.

3. It is the case of the petitioner that the husband of this petitioner namely late Raghuvir Ram had been appointed as Assistant Teacher in Middle School on 15.01.1974 and superannuated from service on 30.11.2012. It is further contended that after retirement, pension payment order was issued on 09.04.2013 containing the photographs of both the wives including the petitioner. Subsequently, the husband of the petitioner expired on 18.08.2015 leaving behind his first wife Maha Devi (Respondent no. 8) as well as this petitioner.

4. It is further claimed by the petitioner that petitioner had married with deceased employee Raghuvir Ram with the permission of the government and therefore, she is entitled to get family pension in terms of Bihar Finance Department Circular, vide Memo No. 149/2010-1549 dated 27.06.2011.



5. Counter affidavit has been filed on behalf of the Respondent no. 8/first wife of deceased employee, wherein, it is specifically stated that petitioner is trying to mislead the Court by annexing false documents. In fact, the petitioner was not the second wife of late Raghuvir Ram.

6. It is further submitted on behalf of Respondent no. 8 that Bihar Finance Department Circular, vide Memo No. 149/2010-1549 dated 27.06.2011, is applicable only to Mohammedans and not in the case of the petitioner. In this connection, counsel for Respondent no. 8 has placed reliance on a decision of this Court, reported in **2014 (3) PLJR 587 (Kalawati Devi vs. State of Bihar)**. It is further submitted that it is settled law that second wife of a government servant is not entitled for family pension while the first wife is alive. The impugned order has been passed in accordance with law, which requires no interference by this Court.

7. On the other hand, counter affidavit has also been filed on behalf of Respondents no. 3 & 4, in which, in paragraph – 7, it has been specifically stated that on the basis of the record, available in the office, *no permission was ever granted or accorded to the deceased employee Raghuvir Ram to perform second marriage*. It is further contended that in view of Rule 186



of Bihar Pension Rule, *only the first wife is entitled to get family pension and there is no concept of second wife* and since the petitioner herself claims to be second wife of late Raghuvir Ram, there is no question of giving her family pension.

8. In the aforesaid facts & circumstances and the materials available on record, this Court does not find any substance in the contention of the petitioner. Law is well settled in this regard and the Hon'ble Supreme Court, in the case of **Rameshwari Devi Vs. State of Bihar & Ors. (2000) 2 SCC 431**, has already held that the second wife, who marries an employee having a spouse living at the time of marriage, would not be entitled to receive family pension. Moreover, the aforesaid Finance Department circular, on the basis of which petitioner is claiming pension, is an exception made only with regard to Mohammedans because of the Mohammedan Personal Law. So far as Hindus are concerned, they do not have a right contrary to law. That apart, the petitioner has not filed any chit of paper in support of her claim to have married with the deceased employee with the permission of the government.

9. In view of ratio laid down by the Hon'ble Supreme Court and the discussion made hereinabove, I am of the view that



no relief can be granted to the petitioner. Accordingly, the writ petition, being devoid of merit, is dismissed.

(Prabhat Kumar Singh, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.03.2021
Transmission Date	N/A

