

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20209 of 2016

Bibi Rashida Khatoon, W/o late Md. Sultan, R/o Village - Rajgorj (Bardhujai Ram) P.O. - Laxmipur Via Mathurapur, P.S. - Pirpaiti, District – Bhagalpur, at present residing at Village + Post Office- Barari, District - Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Home Secretary, Govt. of Bihar, Patna.
3. The Inspector General (Prisons), Govt. of Bihar, Patna.
4. The Commissioner, Bhagalpur Commissioner, Bhagalpur.
5. The District Magistrate, Bhagalpur.
6. The Superintendent of Police, Bhagalpur.
7. The Senior Additional Collector (District Establishment Section), Bhagalpur, District - Bhagalpur.
8. The Jail Superintendent, Central Jail, Bhagalpur.
9. The Accountant General, Mahalekhakar Bhawan, Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Rajkumar Rajesh, Advocate
For the Respondent/s : Mr. Sheoshankar Prasad-SC-8
For Account General : Mr. Satendra Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 28-01-2021

Heard learned counsel for the petitioner, learned counsel for the State and learned Counsel for the Accountant General, Bihar.

In the present case, issue has been raised with regard to entitlement of family pension. The petitioner was married to Md. Sultan during the lifetime of his first wife namely, Bibi Kusum. From the record, it appears that the



husband of the petitioner superannuated from the service on 30.06.1983 and he entered into the marriage with the petitioner on 19.01.1984. Admittedly, the second marriage was solemnized after superannuation of Md. Sultan. Rule-23 of the Bihar Government Servant's Conduct Rules, 1976, provides and prescribes that during the lifetime of first wife, the employee would not enter into the second marriage but, this Rule would apply so long he is in service, after superannuation, he ceased to be a Government servant, save and except, his governance for pension under the Bihar Pension Rules.

From the record, it appears that first wife of Md. Sultan died on 05.11.2003 and Md. Sultan died on 05.09.2005, so during the lifetime of husband, the first wife died. It has been complaint that the petitioner has been deprived of family pension on the plea that as the first wife is not alive, the petitioner being second wife of Md. Sultan, is not entitled to family pension placing reliance on the Resolution No.1549 dated 24.06.2011.

As the husband of the petitioner had died in the year 2005 and this Resolution has come into force in the year 2011 so, it cannot be given retrospectively. Even presuming that it is applicable, in that circumstance also, she cannot be



deprived of family pension as Clause-3 of the aforesaid Resolution provides, in the event of first wife is alive, family pension will be divided 50-50. When first wife has already died, the question of deprivation of family pension to the petitioner does not arise as on the date of death of Md. Sultan the petitioner was the only wife of her husband.

In such view of the matter, this Court gives direction to the respondents to make payment of family pension including the arrears of amount to the petitioner within a period of four weeks from the date of production / receipt of a copy of this order.

With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	30.01.2021
Transmission Date	N/A.

