

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10918 of 2024

Baby Devi, W/O Late Nagendra Singh, Resident of Campus of Bihar Agriculture University, Sabour, Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary. Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar Agriculture University through Registrar P.S. Sabour, Bhagalpur.
4. The Vice-Chancellor, Bihar Agriculture University, P.S. Sabour, Bhagalpur.
5. The Registrar, Bihar Agriculture University, P.S. -Sabour, Bhagalpur
6. The Director (Administrative), Bihar Agriculture University, P.S. - Sabour, Bhagalpur.
7. The Controller, Bihar Agriculture University, Sabour, Bhagalpur.
8. The Associate Dean-cum-Principal, Bihar Agriculture University, Sabour, Bhagalpur.
9. Samunder Devi, W/O Late Nagendra Singh, Resident of village- Khopi, P.O. and P.S. - Jandaha, District- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shri Kant Pandey, Advocate Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Anil Kumar Singh, G.P.-26
For Respondent No.9	:	Mr. R. K. Shukla, Advocate Mr. Pratyush Pratap Singh, Advocate
For the University	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 10-09-2024

Heard Mr. Shri Kant Pandey, learned Advocate for the petitioner, Mr. Shailendra Kumar Singh, learned Advocate for the Bihar Agriculture University, Sabour, Mr. R. K. Shukla, learned Advocate for respondent no.9 and Mr. Anil Kumar Singh, learned Advocate for the State.

2. The petitioner is aggrieved by the order as



contained in Memo No. 283 dated 05.06.2024 issued under the signature of the Vice-Chancellor, Bihar Agriculture University, Bhagalpur, whereby the claim of the petitioner for final pension, gratuity and other benefits was rejected and ordered in favour of respondent no.9 to pay the admissible retiral benefits.

3. Learned Advocate for the petitioner vehemently contended that admittedly the petitioner is the second wife of late Nagendra Singh, who was appointed and working as Sharmik in regular establishment in the Bihar Agriculture University, Sabour, Bhagalpur (hereinafter referred to as 'the University'). Since respondent no.9, the first wife of the erstwhile employee was issue less and, as such, with the consent of all and especially with the consent of respondent no.9 second marriage was solemnized with the petitioner. From the wedlock of the erstwhile employee and the petitioner, two daughters were born and at present both are married.

4. Learned Advocate for the petitioner drawing the attention of this Court to Annexure-P/3 submitted that the Government of Bihar in the Department of Finance has come out with a resolution with a prescription that where an officer is survived more than one widow, then the pension will be paid in equal share. It is also contended that this fact has not been



denied that the erstwhile employee has been living with the petitioner. It is lastly contended that respondent no.9 was also getting Rs.10,000/- per month as maintenance, which was being deducted from the salary of the erstwhile employee; this clearly shows that the respondent no.9 has never been residing with the erstwhile employee.

5. On the other hand, learned Advocate for the respondents submitted that prior to the present case, the respondent no.9 had preferred C.W.J.C. No. 1110 of 2021 wherein the petitioner was the respondent no.11. The entire issue has been canvassed before the learned coordinate Bench and thus taking note of the facts the Court has clearly observed that the petitioner (Samundar Devi) cannot be denied the benefit of family pension in case it is found that due permission was not sought by the deceased employee during his lifetime for second marriage. This is not the case of the petitioner that at any point of time the erstwhile employee sought permission for second marriage. Admittedly, the petitioner being the second wife, she is not entitled for the pensionary benefits.

6. Learned Advocate for the University also submitted that earlier resolution as contained in Memo No. Pen-103/64-9505 F dated 03.10.1964 stood modified in the year



1996 vide Resolution No. 10059 dated 06.09.1996, which clearly prohibits grant of family pension to the second wife, whose marriage is solemnized during the life time and the subsistence of the first marriage, however, the children of the second wife are entitled for proportionate benefit.

7. The entire facts has also been taken note of by the Vice-Chancellor of the University while rejecting the claim of the petitioner vide Memo No. 283 dated 05.06.2024, the copy of which is produced as Annexure-P/2.

8. Having heard the rival contention of the learned Advocate for the parties and taking note of the Government Resolution dated 06.09.1996, which clearly mandate the Government employees to take prior permission for the purposes of second marriage. However, it is the admitted fact that the same has never been done. It is also the admitted position that the petitioner is the second wife, in view thereof this Court does not find any merit in the present writ petition and, accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2024
Transmission Date	NA

