

IN THE HIGH COURT OF JUDICATURE AT PATNA

Most. Mohini Devi

vs.

Vice Chancellor, L.N. Mithila University, Darbhanga and Others

Civil Writ Jurisdiction Case No. 19605 of 2021

24 April, 2023

(Hon’ble Mr. Justice Purnendu Singh)

Issue for Consideration

Whether order of Registrar of University, rejecting the claim of petitioner is correct or not?

Headnotes

Service Law—retiral dues and family pension—denial—petitioner who is the first wife of the deceased employee—pensionary benefits has been denied in spite of specific order of this Hon’ble High Court—till date no one has shown interest other than the petitioner to claim family pension which is due on account of death of the deceased employee—son from second wife was appointed on compassionate ground—petitioner being legally wedded wife of the deceased employee entitles her for family pension—only son of the deceased employee and any other member has not made any objection to the claim of the petitioner.

Held: law is well settled that family pension should not be denied to the wife of the deceased employee—pension is not a bounty—her only claim is that she is the legally wedded first wife of the deceased employee and as she did not give birth to a male child, the deceased employee had married to another woman—Registrar of the University does not consider this fact and has also not considered several documents adduced by the petitioner—impugned order set aside and quashed with a direction to pass a fresh order—with direction and observation, writ petition disposed off. **(Paras 3, 5, 7, 8 and 10)**

Case Law Cited

NONE

List of Acts

Service Law.

List of Keywords

retiral dues and family pension, first wife, second wife, compassionate appointment.

Case Arising From

From order of Registrar denying the claim of petitioner of retiral dues and family pension.

Appearances for Parties

For the Petitioner: Mr. Ratan Kumar Kumar, Advocate.

For the University: Mrs. Binita Singh, Advocate.

Headnotes Prepared by Reporter: Abhas Chandra, Advocate.

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19605 of 2021

Most. Mohini Devi, Wife of Late Baidyanath Jha, Resident of Mohalla-
Mouhali, P.O.- Mouhali, P.S.- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The Vice Chancellor, L.N. Mithila University, Darbhanga.
2. The Registrar, L.N. Mithila University, Darbhanga.
3. The Finance Officer, L.N. Mithila University, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ratan Kumar Kumar, Advocate.
For the University : Mrs. Binita Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 24-04-2023

Heard Mr. Ratan Kumar Kumar, learned counsel

appearing on behalf of the petitioner and Mrs. Binita Singh,

learned counsel for the University.

2. Learned counsel appearing on behalf of the petitioner submits that petitioner who is the first wife of the deceased employee namely Baidyanath Jha has been denied retiral dues and family pension. He submits that the Aadhar Card No. 710536844811 would indicate that the petitioner Mohini Devi is the legally wedded wife of the deceased-employee Late Baidyanath Jha and she is entitled for all pensionary benefits which has been denied in spite of specific order of this court dated 14.03.2019 passed in C.W.J.C. No. 142 of 2019. He refers to the operating part of the order dated 14.03.2019 which is reproduced hereinafter:

“Considering the nature of claim made by the



petitioner, let the petitioner file a detailed representation before the respondent no.2, The Registrar, L.N. Mithila University, Darbhanga which will be disposed of within a period of three months from the filing of such representation. If the petitioner is entitled to any amount, the same shall be paid within a period of two months thereafter.

If death-cum-retiral benefits are in admissible, the same shall be communicated to the petitioner by a speaking order sent through registered post.

Writ application is disposed of accordingly.”

3. Learned counsel further submits that there is no requirement of submitting succession certificate or any decree from the civil court of competent jurisdiction for establishing her claim that she is the legally wedded wife of the deceased employee as she has submitted several documents in that regard which confirms that the petitioner is legal wife. Till date no one has shown interest other than the petitioner to claim family pension which is due on account of death of the deceased employee.

4. Per contra, learned counsel appearing on behalf of the State submits that in compliance of the order of this Court dated 14.03.2019 passed in C.W.J.C. No. 142 of 2019, the claim of the petitioner was considered and after recording reasons on the basis of material produced by the petitioner, the claim of the petitioner that she is the legally wedded first wife of the deceased-employee has been denied. It has further been submitted that the legitimate wife of the deceased employee



namely Shanti Devi has also died on 25.01.2019.

5. Learned counsel further submitted that it is admitted that her husband (deceased employee) has left behind his back her and a son namely Ajay Kumar. The authorities have rightly considered to appoint the son of the deceased employee namely Ajay Kumar on compassionate ground. The petitioner being legally wedded wife of the deceased employee entitles her for family pension. The only son of the deceased employee and any other member has not made any objection to the claim of the petitioner. In these background, learned counsel appearing on behalf of the petitioner submits that the order contained in Memo No. 21 dated 12.04.2021 is not sustainable in the eye of law for the reason that the Registrar, Lalit Narayan Mithila University, Darbhanga has not taken note of the fact that the son of the deceased employee has not made any objection with respect to the claim of the petitioner.

6. Having heard the rival submission of the parties, the claim of the petitioner has been denied by the Registrar who has passed the following order, which is, inter alia, reproduced hereinafter:

REASONED ORDER:

1. It was found that the petitioner Mohini Devi claiming to be the first wife of Late B.N. Jha was never considered to be the spouse of the deceased incumbent, which is evident from perusal of the nomination made by Late Dr. Jha in the



L.I.C policy, copy of which which was available in the file, in which it was mentioned that Shanti Devi was the nominee as wife of Late Jha.

2. From perusal of the documents submitted by Shanti Devi available in the file, the ID card of Election Commission of India issued in the name of Shanti Devi shows Late Baidyanath Jha as her "husband".

3. Application dated 17.05.2001 available in the records, shows that Smt. Shanti Devi had claimed for the salary arrear and retiral benefits as well as appointment on compassionate ground to his only son, Ajay Kumar,

4. Letter dated 09.05.2001 from the then M.P., Darbhanga Shri Kirti Jha Azad in respect of payment of Group Insurance amount & other dues to Smt. Shanti Devi W/o the deceased may be seen at page 69/corr. in which he has requested the University to make payment of Late Jha to her wife Shanti Devi. Besides, he has also issued a Certificate dated 27.06.2001 that Smt. Shanti Devi is the W/o-Late Baidyanath Jha, R/o Ward no.-10, Mohalla -Donar (Near Aryabhatt Office), Town – Darbhanga.

5. The photographs of Late Baidyanath Jha along with his wife Shanti Devi and two children are also available in the file, which shows that Smt. Shanti Devi is W/o-Late Baidyanath Jha.

6. The University earlier already had appointed on compassionate ground Ajay Kumar, the only son of Late Dr. Baidyanath Jha & Late Shanti Devi.

7. Thus, claim of Late Shanti Devi is established to be genuine and lawful.

8. From perusal of the documents submitted by Smt. Mohini Devi, it could not be certified that she is the legitimate wife of Late Jha.

Hence, Smt. Shanti also died on 25.01.2019, the aforesaid family pension of Late Jha from 04.03.2001 (Next date of demise of Dr. Jha) to 25.01.2019 (Date of demise of Shanti Devi) & other salary or retiral dues is to be paid to his only son Ajay Kumar, who is also an employee appointed by the University on the compassionate ground due to sad demise of Dr. Jha in harness.

The representation as mentioned above, is disposed of in above mentioned terms.”

7. Law is well settled that family pension should not be denied to the wife of the deceased employee. It is also



well settled that pension is not a bounty. In the present case, record reveals that the only son of the deceased employee namely Ajay Kumar has been appointed on compassionate ground in the University. It is also admitted that one of the wife of the deceased employee namely Shanti Devi is also no more. Petitioner has not disputed that Ajay Kumar born out of late Shanti Devi. Her claim is that she is the legally wedded first wife of the deceased employee and as she did not give birth to a male child, the deceased employee had married to late Shanti Devi. Considering the fact that Ajay Kumar has been granted compassionate appointment, he is the one person who would have raised objection to the claim of the petitioner of not being legally wedded first wife of the deceased employee.

8. The Registrar, Lalit Narayan Mithila University, Darbhanga while passing the impugned order dated 12.04.2021 has not considered above fact and has also not considered several documents adduced by the petitioner, the impugned order dated 12.04.2021 is set aside and quashed with a direction to pass a fresh order considering the fact that no one has made objection with respect to the claim of the petitioner and the son of late deceased employee Ajay Kumar has also not denied that the petitioner is not his step mother. The petitioner has



produced several certificates in support of her claim and the Aadhar Card also shows that the petitioner is the wife of the deceased employee. This Court finds that any proof of marriage by producing the marriage certificate issued in accordance with the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955 is unwarranted taking into consideration that the petitioner has grown old and in proof of evidence of marriage, this Court finds that sufficient documents have been brought on record with supplementary affidavit and these documents have not been taken note of / considered by the Registrar of the University.

9. The Registrar, Lalit Narayan Mithila University, Darbhanga must pass a fresh order within three weeks after giving proper opportunity to the petitioner and if it is found that no objection is made from any corner, the petitioner must be given the benefit of family pension.

10. With aforesaid direction and observation, the writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	27.04.2023
Transmission Date	N.A.

