(2012) 10 PAT CK 0010

In the Patna High Court

Case No : CWJC No. 3694 of 2012

Mehrun Nisha APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2013) 1 PLJR 222

Hon'ble Judges : Ramesh Kr. Datta, J

Bench : Single Bench

Advocate : Helal Ahmad and Md. Anjum Akhter, for the Appellant; Archana Sinha for the State and Mr. Arun Kumar Arun for the A.G., Bihar, for the Respondent

Final Decision : Allowed

Judgement

Ramesh Kr. Datta, J.—Heard learned counsel for the petitioner and learned counsel for the State and for the private respondent No. 7. The petitioner seeks a direction on the respondent Nos. 4 to 6, namely, the Accountant General (A&E), Bihar, the Treasury Officer, Gopalganj and the Branch Manager, Central Bank of India to pay the entire family pension to the petitioner.

2. The brief uncontroverted facts of the case are that the husband of the petitioner, namely, Md. Merajuddin Ansari was married to the petitioner about 50 years back, from which marriage two sons and two daughters were born, who are all major. The husband of the petitioner was a Government Officer who retired from the post of Medical Officer, Primary Health Centre, Dighwa Dubauli at Gopalganj on 31.3.1997 and on that basis PPO was issued by the Accountant General, Bihar, The husband of the petitioner also solemnized a second marriage in the year 1977 with respondent No. 7 Bina Ansari; from the said marriage also two children were born, who are married. The husband of the petitioner died on 12.11.2011. Thereafter family pension is being paid in favour of respondent No. 7.

3. The petitioner filed the writ petition initially for payment of half of the family pension but subsequently the prayer has been permitted to be amended for claiming full amount of family pension.

4. Learned counsel for the petitioner relies upon a Notification dated 6.9.1996 of the State Government in the Finance Department by which Note (1) to paragraph 7(iii) of the Notification dated 3.10.1964 of the State Government has been deleted under which in case of two marriages the family pension was to be paid in equal shares to both the wives. It has now been provided by the Notification dated 6.9.1996 that the second wife would not be entitled to any family pension. It is thus submitted by learned counsel for the petitioner that the entire family pension must be paid to the petitioner and none of it can be paid to respondent No. 7.

5. Learned counsel for respondent No. 7 submits that the said respondent is also a legally wedded wife and in terms of Note (1) to paragraph (iii) of the Notification dated 3.10.1964 she should also be paid half of the family pension, otherwise she would not be able to maintain herself.

6. On a consideration of the entire facts and circumstances of the case, it is evident that in terms of the Government Notification dated 6.9.1996 only the first wife, namely, the petitioner would be entitled for payment of family pension and none of it can be paid to the second wife since all the children of both the marriages are major and married. The writ application is, accordingly, allowed and the earlier decision to pay the family pension to the second wife is quashed. The respondents are directed to pay the entire family pension to the petitioner with effect from 12.11.2011 within a period of four months from today.