
(1998) 11 PAT CK 0022
In the Patna High Court
Case No : C.W.J.C. No. 10080 of 1997

Shoiba Khatoon

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-11-1998

Acts Referred:

Citation : (1999) 1 PLJR 304

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Advocate : Suryadeo Narain Verma, for the Appellant; Subhash Pd. Singh, for Accountant General, A.P. Jittu and Ranjan Kumar for State, for the Respondent

Judgement

S.N. Mishra, J.—The husband of the Petitioner retired as Class IV employee on 30th June, 1987 and after retirement he married the Petitioner. Thereafter the retired employee died on 2.2.95. Admittedly, other pensionary benefits, legally payable to the deceased employee has been paid to the Petitioner. Only dispute remains to be decided in this writ application is as to whether the Petitioner is entitled to the family pension w.e.f. 2.2.95 when the husband died or from 3.9.96 when the pension has been granted to the Petitioner. It is well settled principle in law by now that even the retired employee married after his retirement, his spouse and children are entitled for the pensionary benefits. As stated above, admittedly the husband of the Petitioner died on 2.2.95 and, as such, the Petitioner is entitled for the family pension w.e.f. that date. Learned Counsel for the Respondents, however, submits that the department has taken a decision for such pension payable w.e.f. 3.9.96. In support of his contention learned Counsel has relied upon Annexure-4, the letter dated 3.9.96 issued by the Finance department.

2. I have heard the learned Counsel for the Petitioner and the State and considered the materials on record. I am of the view that there is no basis for granting family pension w.e.f. 3.9.96 when, admittedly, the husband of the Petitioner died on 2.2.95. In that view of the matter, the Petitioner is entitled to

family pension w.e.f. the date when the husband died, i.e. on 2.2.95. Admittedly, the Petitioner is getting family pension w.e.f. 3.9.96. Accordingly, the State Respondents are directed to pay the family pension to be calculated w.e.f. 2.2.95 within six weeks from the date of receipt/production of a copy of this order. This disposes of this writ application.