

(2011) 12 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : CWP No. 1180 of 2011-B

Smt. Rattani Devi

APPELLANT

Vs

The State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Citation : (2011) 12 SHI CK 0065

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Surinder Singh, J.—Petitioner claims herself to be the first wife of deceased LHC Hari Singh. After the death of her husband, she was granted family pension. Later on i.e. after about 10 years, respondents No. 5 to 9 also staked claim being the legal heirs of deceased from his second wife Smt. Meera Devi. On the representation of the private- respondents, the fourth respondent vide letter dated 1st February, 2011 (Annexure P-8) ordered to pay 50% amount of compensation to the family and 50% amount of compensation to the privaterespondents and the amount of family pension paid to the petitioner was ordered to be recovered and paid to the eligible children w.e.f. 05.03.2000, which is under challenge.

2. Admittedly, respondent No. 5 has attained the age about 25 years and respondent No. 6 Ms. Bholi Devi stands married. Respondents No. 7 and 8 are the unmarried daughters aged less then 25 years and respondent No. 9 a minor son from the second wife.

3. In view of the judgment passed by the Division Bench of this Court titled Premi Devi v. Director of Directorate General Borders and Others [Latest HLJ, 2007 HP 49], the petitioner as well as respondents No. 7 to 9 are entitled to the extent of half share i.e. 50% share and respondents No. 7 to 9 equally for another 50% share. Out of the full family pension (as per affidavit dated

5.12.2011), which comes to Rs. .6,143/- (Basic pension Rs. .4,068/- plus Dearness Allowance Rs. .2,075/).

4. Therefore, in view of the above, the respondents No. 4 is hereby directed to release 50% share of the amount of pension to the petitioner and another 50% to respondents No. 7 to 9 w.e.f. 01.01.2012, in equal shares payable in February 2012. The respondents shall intimate respondent No. 4 with respect to their bank accounts etc. within two weeks.

5. Further, since the recovery, as per Clause- III of letter (Annexure P-8) will cause undue delay to the petitioner widow, the aforesaid Clause is hereby quashed and set aside.

6. The petition stands disposed of in the above terms so also the pending application(s), if any.

Dasti copy to the parties.