

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3153 of 2015

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1. Dimpy Kumari
 2. Rahul Kumar,
The minors through their father and natural guardian, Devendra Prasad son of Sri Satya Narayan Singh resident of village- Kanpa , Police Station- Saidabad , District- Patna.

.... Petitioner/s

Versus

1. The Chairman Cum C . M . D . , Bihar State Power Holding Company Ltd. Vidyut Bhawan , Bailey Road , Patna.
2. The Managing Director, Bihar State Power Holding Company Limited, Vidyut Bhawan , Bailey Road , Patna.
3. The General Manager (H.R.), Bihar State Power Holding Company Limited Vidyut Bhawan , Bailey Road , Patna.
4. The Director (Human Resources) Administration, Bihar State Power Holding Company Limited Vidyut Bhawan, Bailey Road, Patna.
5. The Deputy Director (H.R), Bihar State Power Holding Company Limited Vidyut Bhawan, Bailey Road, Patna.
6. The Deputy Director, Finance / Accounts, Bihar State Power Holding Company Limited Vidyut Bhawan , Bailey Road , Patna.
7. O.S.D. (H.R./ Administration) , Bihar State Power Holding Company Limited Vidyut Bhawan , Bailey Road , Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajib Ranjan Jha, Advocate.

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 10-03-2015

Heard learned counsel for the parties.

Re. : Interlocutory Application No. 1908 of 2015:

2. For the reasons mentioned in this application, the prayer made therein is allowed and both Dimpy Kumari and Rahul Kumar, who are the grand daughter and grand son of the deceased employee, namely, Kaushalya Devi, are directed to be impleaded as petitioner nos. 1 and 2 respectively through their father and

natural guardian Devendra Prasad.

3. Let necessary correction be accordingly made in the cage column of the writ application be made in course of the day.

4. Learned counsel for the petitioners has also submitted that a duly executed Vakalatnama on behalf of the minors through their father and natural guardian has already been filed.

Re.: C.W.J.C. No. 3153 of 2015:

5. The prayer of the petitioners in this writ application reads as follows:

".... commanding the respondents to pay the Gratuity of Rs. 10 lakhs and Leave Encashment of 228 days to the minor children of the petitioner who are the legal heirs of deceased employee namely Kaushalya Devi who died in harness and or further issuance of appropriate writ or writs for quashing the letter dated 28.01.2015 vide letter NO. 92 issued by the respondent no. 7 by which he has directed the legal heirs of deceased to submit succession certificate for payment of gratuity of Rs. 10 lakhs..."

6. Learned counsel for the petitioners has submitted that there is no dispute that the deceased employee Kaushalya Devi, on the date of her death on 25.07.2013, was having no other legal heir except the above named two petitioners, being the minors grand daughter and grand son and in fact part of the post retirement benefits by way of amount of G.P.F. of late Kaushalya Devi to the tune of Rs. 10,67,818/- as also the amount of Group Insurance to the tune of Rs. 1,19,507/- were paid to the two

petitioners in equal proportionate and, therefore, the respondents should have no difficulty in also making payment of the amount of Gratuity to these two petitioners.

7. In this case, a counter affidavit has been filed on behalf of the respondents wherein none of the facts stated above have been sought to be disputed but the only defence for not paying the amount of Gratuity to the petitioners is that while there was nomination in favour of the petitioners for payment of the amount of Provident Fund and the Group Insurance, there is no similar nomination/authorization by the deceased employee for payment of amount of Gratuity. Mr. Vinay Kirty Singh, learned counsel appearing on behalf of the respondents, in fact, has sought to also defend the impugned order for directing the petitioners to produce the succession certificate for claiming payment of amount of Gratuity.

8. In the considered opinion of this Court, the issue of succession certificate could have become relevant if there was any other claimant. The respondents, in their counter affidavit, have not come out with a case that there was anyone else also who are claiming the amount of Gratuity of the deceased employee of late Kaushalya Devi. Additionally, this Court would find that the respondents were made aware that the petitioners were not

strangers but only the family members of the deceased employee in whose favour the nomination was made by the deceased employee for payment of the amount of GPF and Group Insurance. In this situation, this Court would not find it necessary of the petitioners to produce a succession certificate for getting the payment of amount of Gratuity.

9. It is true that the respondents have apprehension that they will be subjected to some sort of litigation if and when any other person comes out to claim the amount of Gratuity, but crucial question would be, can such an apprehension alone come in the way of the petitioners in getting the due amount of Gratuity specially when they have already received the payment of the amount of G.P.F. and Group Insurance, which was also a huge amount of being more than Rs. 12 lacs.

10. In such a situation, the interest of justice would be better subserved if the respondents are directed to make payment of the amount of Gratuity in favour of the petitioners again in equal proportion and this entire amount of Gratuity, in view of the petitioners already received payment of Rs. 12 lacs, shall be kept in fixed deposit by the father of the petitioners till they attain majority.

11. For the present, the father of the petitioners, after receiving such amount on behalf of the aforesaid two petitioners (the minors), will have to give written undertaking in form of indemnity bond that if at any point of time, any other person, proving himself or herself to be the legal heir of late Kaushalya Devi, comes out with the established claim of receiving payment of the amount of Gratuity, such amount of Gratuity shall be refunded by the petitioners through their father within a period of 30 days by making such claim. As soon as this undertaking is given by the father of the petitioners, the amount of Gratuity of Rs. 10 lacs must be released by the respondents in favour of the petitioners and in no event beyond the period of fifteen days from the date of producing of the indemnity bond by the father of the petitioners.

11. With the aforementioned observations and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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