

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16616 of 2011

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Md. Firoz Ahasan Son of Late Md. Alay Ahsan, Resident of Village Mohni (Jangipur), Police Station-Asthawan, District-Nalanda.

.... Petitioner/s

Versus

1. The Administrator, Bihar State Road Transport Corporation, Parivahan Bhawan, Patna.
2. The Divisional Manager, Bihar State Road Transport Corporation, Patna.
3. The Chief Account Officer, Parivahan Bhawan, Patna.
4. Nasima Khatoon Daughter of and Wife of not known Resident of Village Charuawan, Police Station-Sheikhpur Sarai, District-Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Kumar, Advocate.
For the Respondent-Corporation : Mr. Prabhat Kumar Verma, Advocate.
For Respondent No. 4 : Mr. N. A. Shamsi &
Mr. Rashid Rais, Advocates.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

3 13-08-2015

Heard learned counsel for the parties.

The petitioner has moved the Court against the direction contained in letter dated 14.07.2011 issued under Memo No. 4338 by which the respondent no. 3 has stayed the payment of remaining retiral benefit due to the deceased brother of the petitioner on the ground that there is another claimant to the same.

Learned counsel for the petitioner submits that he is the brother of the deceased employee. It is submitted that the deceased employee had himself filled up the nomination form with regard to C.P.F. in which he has shown himself to be unmarried and has made the petitioner nominee



and further in the affidavit he has stated that he is nominating the petitioner as his sole heir to all his movable and immovable properties and has further stated that he has no other heirs and that after his death, all due amount may be withdrawn by the petitioner. It is submitted that in view of the said documents, the petitioner had got payment of certain retiral dues but still substantive payment remains. Learned counsel has drawn the attention of the Court to Annexure-4, which is the order dated 09.03.2010 passed by a co-ordinate Bench in C.W.J.C. No. 4012 of 2010 by which respondent no. 4 had moved the Court claiming to be the wife and for a direction to the respondents to pay the retiral dues to her and the same was disposed off with liberty to file a representation before the Chief Account Officer of the respondent-corporation with supporting documents and he was directed to consider the same expeditiously and if admitted dues were found payable, the same were to be paid to her. It is submitted that pursuant thereto, the respondent no. 4 had approached the respondents leading to issuance of the impugned order dated 14.07.2011. Learned counsel submits that when there is documentary material available before the Corporation showing the desire of the late employee that all his death-cum-retiral benefit be paid to the petitioner and further that he was unmarried, the respondent Corporation, in the absence of any order of a competent Court cannot stop such

payment and that too on the representation of a person who claims herself to be the wife of the deceased employee.

Upon notice being issued to the respondent no. 4, learned counsel has appeared and also filed counter affidavit in which copies of certain documents have been brought on record to indicate that she is the wife of the late employee.

Learned counsel for the Corporation submits that in view of the order of the Court dated 09.03.2010 in C.W.J.C. No. 4012 of 2010 and there being controversy with regard to the heirs of the deceased employee, they had stopped further payment and thus with bona fide intention ordered the parties to bring succession certificate so that the remaining amount can be paid.

Learned counsel for the petitioner, by way of reply, submits that from the documents produced on record by the respondent no. 4 and in a counter affidavit also, it would be clear that the deceased employee was not her husband. In support of such contention he refers to the copy of the Photo Identity Card issued by the Election Commission of India in which the address of the respondent no. 4 is different from the address of the deceased employee. It is further submitted that even in the family list issued to the respondent no. 4, the address of the late employee is different and thus clearly no benefit can be taken by the respondent no.

4 in support of her claim to be the wife of the deceased employee who is admittedly the brother of the petitioner.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, this Court is not in a position to declare as to whether the respondent no. 4 is the wife of the deceased employee as the same would require taking of evidence and other formalities which a Civil Court of competent jurisdiction can more appropriately go into before recording a finding either way. However, this Court is equally convinced with the arguments advanced on behalf of the petitioner that since the respondent Corporation has documentary evidence in its records filled up and affirmed by the deceased employee himself in which he has shown himself to be unmarried even at the time of retirement and further expressing his desire that all dues payable to him be paid to the petitioner, it is not in the fitness of things that the amount due to the deceased employee be withheld by the Corporation.

Accordingly, the respondent Corporation is directed to release the remaining amount in favour of the petitioner. At this stage, on the query of the Court, learned counsel for the petitioner submits that he undertakes that he shall not object and would rather accept the consequences in the event the respondent no. 4 is able to get a judgment in her favour with regard to her being the wife of the deceased

employee namely, Md. Nehal Ahsan, the brother of the petitioner and also pay to respondent no. 4 whatever sum is found due as per the order in the suit without any objection or hindrance from his part, within 6 months from the date of the judgment.

The respondents shall ensure payment to the petitioner within four weeks from the date of production of a copy of this order upon the respondent no. 3.

The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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