

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10500 of 2011

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Most.Geeta Devi Wife of Late Ram Prit Paswan, Resident of Village
Naraulidih P.S. Mushahari Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Chairman cum Managing Director, Bihar State Road Transport Corporation, Pariwahan Bhawan Patna.
3. Chief Account Officer, Bihar State Road Transport Corporation, Pariwahan Bhawan Patna.
4. Divisional Manager, Bihar State Road Transport Corporation, Gaya.
5. Depo Superintendent, Bihar State Road Transport Corporation, Gaya.
6. Superintendent of Police Muzaffarpur.
7. Officer-in-Charge of Mushahari Police Station, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan, Advocate.
For the Corporation	:	Mr. P. K. Verma, Sr. Advocate. Ms. Pushpa Sinha, Advocate.
For the State	:	Mr. Anshuman Singh, G.P. 24 Mr. Sriram Krishan, A.C. to G.P. 24

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

12 07-08-2015

Heard learned counsel for the petitioner and Mr.

P.K. Verma, learned senior counsel assisted by Mrs. Pushpa Sinha, learned counsel for the respondent Bihar State Road Transport Corporation.

The present writ application has been filed seeking a direction to the respondents to pay post retiral benefits including family pension which is due to the late husband of the petitioner on the ground that he has been traceless for over seven years. Learned counsel for the petitioner submits that the petitioner was kidnapped in April, 1999 for which Complaint Case No. 1034 of 1999 was filed



before the Chief Judicial Magistrate, Muzaffarpur which was later on converted into Mushahari P.S. Case No. 33 of 2004 on 09.05.2004. It is submitted that the police have also submitted final form on 08.08.2007 showing that the petitioner's husband was missing. It is thus submitted that under Sections 107 and 108 of the Indian Evidence Act, 1872 there was presumption of death of a person if he has not been seen by people who are normally expected to be aware of his whereabouts. Learned counsel for the Corporation submits that since there is no definite finding by a Court below with regard to the death of the petitioner, the Corporation was not in a position to pay the retiral dues of the husband of the petitioner. Moreover, it is submitted that the heirs of the said employee have to produce necessary documentary evidence to satisfy the authority with regard to their claim.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, though technically the stand of the Corporation that there is no definite finding with regard to the death of the husband of the petitioner but in view of the provisions of Sections 107 and 108 of the Indian Evidence Act and the police giving a finding that the husband of the petitioner is missing, the Corporation ought to act upon the presumption under law that the person is no more alive and accordingly give the post retiral benefits to the heirs of Ram Prit Paswan.

Accordingly, the application stands disposed off with as direction to the petitioner to file an appropriate application before the respondent no. 3 with material to show that she is the heir of the said Ram Prit Paswan. Upon the said representation being filed and the authorities being satisfied with regard to the claim of the petitioner, the retiral benefits may be paid to her within eight weeks thereafter, upon completion of all legal formalities in accordance with law.

(Ahsanuddin Amanullah, J.)

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