

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21106 of 2011

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Sukumari Devi Wife of Late Upendra Paswan, Resident of Salmari, P.S.-Azam Nagar, District-Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Naugachhiya, Bhagalpur.
3. The Accountant General (A & E), Patna, P.S.-Patna, District-Patna.
4. The Treasury Officer, Katihar.
5. Rajeew Kumar Son of Late Upendra Paswan and Smt. Sukumari Devi Resident of Village + Post Office-Salmari, P.S.-Ajam Nagar, District-Katihar.
6. Nirmala Devi, W/o Late Upendra Paswan, resident of Lalihie, Manihari Road, P.S. & District-Katihar, Ward No. 10.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 04-12-2015

Heard learned counsel for the parties.

The writ application has been filed by the petitioner who is the first wife of the deceased employee and is aggrieved by the fact that initially she was getting 100% family pension but later on it was reduced to 50%.

Learned counsel for the petitioner submits that due to the Department being informed by the second wife about the fact of such marriage, the Department has reduced her pension to 50% and the rest 50% has been directed to be adjusted towards the loan taken by the late husband of the petitioner. It is submitted that once the step son of the deceased employee i.e., the son of the second wife has been granted compassionate

appointment, it is his responsibility to liquidate the loan and the same cannot be adjusted from the pensionary benefits of the petitioner.

Learned counsel for the respondents submit that there is some misconception with the petitioner to the fact that she is entitled to 100% family pension which is incorrect inasmuch as the government rules and circulars prescribe that in the event there are two wives of a deceased employee, the family pension shall be divided among the first wife and the minor children of the second wife till they attain the age of 25 years or till the daughters get married. Thus, in the present case, the petitioner was right from the beginning entitled to 50% of her share of family pension and she has in fact received 100% which is in excess of her share or entitlement. It is further submitted that it is not the concern of the petitioner as to what the State does with the other 50% which in any view of the matter was never the property or entitlement of the petitioner.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is in agreement with the submissions of learned State Counsel. The petitioner cannot be aggrieved by receiving 50% of family pension because that is her entitlement under the law. How the rest 50% is dealt with is not the concern of the petitioner because she, in any case is not beneficiary of the remaining 50% as it will go to the branch of the second wife. The prayer of the

petitioner that the step son should be directed to take care of the liability of the deceased, in the considered opinion of the Court, cannot be adjudicated here in the present case as the petitioner is not prejudiced or affected or concerned with the issue of who will settle the loan taken by the deceased employee for the simple reason that the petitioner has not been called-upon or directed to clear the loan and thus, it is not her concern at all. Further, the submission of learned counsel for the petitioner that the step son is not maintaining her despite getting compassionate appointment with the rider that he shall maintain the dependants of his father and the writ petitioner, also being the widow is dependent, the Court would only observe that for such cause of action, the petitioner would have to file an appropriate representation before the authorities or a suit before the civil court of competent jurisdiction and the same cannot be decided in a writ proceeding. The Court also finds that such relief has never been prayed for in the present writ application.

Accordingly, the writ petition stands disposed off with the aforementioned observations.

(Ahsanuddin Amanullah, J.)

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