

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7155 of 2000

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Reeta Devi, Wife of Late Vijaya Kumar, resident of Village-Gopipur, P.S.-Signori, District-Patna, at present living in Mohalla-Ghughari Tand, near By-Pass Road, P.S.-Civil Line, District-Gaya, working as Peon in the office of the Executive Engineer, Road Construction No. 2, Road Construction Department, Gaya.

.... **Petitioner/s**

Versus

1. The State of Bihar.
2. The Secretary to Government, Road Construction Department, Government of Bihar, Nirman Bhawan, Patna.
3. The Under Secretary to Government, Road Construction Department, Government of Bihar, Nirman Bhawan, Patna.
4. The Superintending Engineer, Road Construction Department, Magadh Road Circle, Gaya.
5. The Executive Engineer, Road Division No. 2, Road Construction Department, Gaya.

.... **Respondent/s**

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Appearance :

For the Petitioner/s : Mr. Saurabh Kumar, Advocate

For the Respondent/s (State) : Mr. A. Ujjwal, Advocate (SC-25)

Mrs. Bandana Singh, Advocate (AC to SC-25)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 26-06-2015

Heard learned counsel appearing on behalf of the parties.



2. This is an application seeking quashing of an order dated 31.05.2000, passed by the Under Secretary to the Government, Road Construction Department, Government of Bihar, Patna, whereby, half of the total monthly emoluments, including pay and allowances, which the petitioner was receiving upon her compassionate appointment, as Class-IV employee consequent upon the death of her husband, has been directed to be paid to her two step-sons, namely, Deepak Kumar and Raj Kumar.

3. There appears to be no dispute about the fact that the petitioner was appointed, as Peon, on compassionate ground in the year 1993, consequent upon the death of her husband, namely, Vijaya Kumar, a Treasury Guard in the said department. The said Vijaya Kumar had two sons, namely, Deepak Kumar and Raj Kumar, from his first wife.

4. In the order, appointing the petitioner on compassionate ground, dated 02.02.1993, it was mentioned that the petitioner shall maintain the dependents of late Vijaya Kumar. By subsequent order dated 24.12.1997 (Annexure-2), issued by the Executive Engineer, New Capital Division, Road Construction Department, Patna, the petitioner was directed to pay a sum of Rs. 800/- per month



to the other dependents of said Vijaya Kumar. By subsequent order dated 31.05.2000, the department directed that half of the emoluments, which the petitioner was receiving, should be paid to her two step-sons, namely, Deepak Kumar and Raj Kumar. The order dated 31.05.2000, is under challenge in the present writ application. One of the step-sons, namely, Deepak Kumar, has been added as party-respondent no. 6 in the present writ application and notice was issued to him. He also entered into appearance, through Vakalatnama, but as is evident from the order dated 15.07.2002, when the matter was taken up by this Court, learned counsel, who was appearing on behalf of respondent no. 6, did not have any instructions. Today also, learned counsel representing respondent no. 6 is present, but he states that he has no instructions in this regard.

5. The said respondent no. 6, Deepak Kumar, has filed a counter affidavit, stating that the petitioner, on her appointment on compassionate ground by order dated 02.02.1993, was initially maintaining the family properly, but suddenly from the month of July, 1995 she refused to maintain the family, as she got married to another person.



The statement has, however, been denied in a supplementary affidavit filed on behalf of the petitioner, wherein it has been stated that the petitioner has not re-married. It has also been stated in the supplementary affidavit filed by the petitioner on 18.05.2015 that the said step-sons, namely, Deepak Kumar and Raj Kumar, have now become major and they do not require maintenance anymore.

6. Learned counsel for the petitioner has submitted that the petitioner maintained the dependents of the deceased employee properly with whatever earning she had, upon her appointment on compassionate ground. He contends, referring to the supplementary affidavit, that because of proper care by the petitioner given to the dependents of the deceased employee and their maintenance, they grew up properly and they are now settled in their life. He has further submitted that there was no basis for the respondents to have issued the order dated 31.05.2000, which is impugned in the writ application.

7. Learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that after having received the complaint that petitioner was not maintaining the dependents of the deceased employee, i.e., the step-sons

of this petitioner, the department had taken a decision that half of the emoluments will go to them and there is no illegality in the order.

8. Considering the fact that nothing has been brought to my notice to demonstrate that the petitioner had, in fact, failed to maintain her two step-sons, who are sons of the deceased employee and also keeping in mind the fact that said sons have now become major, the impugned order dated 31.05.2000 (Annexure-3), is quashed.

9. This application is, accordingly, allowed.

10. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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