

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3671 of 2015

Nirmala Kumari, Wife of Late Padarath Kharwar (D/o Late Hanuman Prasad Arya), resident of Mohalla- Chaman Lal Talab (ward No.17), P.S.& P.O. Bhabua, District Kaimur (Bhabua) at present residing at C/o Sri Uma Shankar Singh, Arfabad colony, P.S. Alamganj, P.O. Gulzarbagh, District- Patna...

.... Petitioner/s

Versus

1. The State of Bihar through the Collector Bhabua Kaimur.
2. The Block Development Officer, Block Durgawati, District- Kaimur (Bhabua),
3. The Panchayat Secretary, Gram Panchayat Awhariya, Block- Durgawati, District- Kaimur(Bhabua),
4. The Director (Admn.) & central public Information officer (C.P.I.O.) India Audit and Accounts Department, office of the Director General of Audit, Central Kolkata, Govt. of India, Press Building, 8, Kiran Sankar ROy Road, Kolkata-700001.
5. The Union of India through Indian Audit and Accounts Department Office of the Director General of Audit, Central Kolkata.
6. The Sr. Audit Officer (Administration), Indian Audit and Accounts Department, Central Kolkata.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar, Adv.
For the State : Mr. M.K. Ambastha, GP14
For the Res. No. 4 to 6 : Mrs. Kanak Verma, CGC

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 13-04-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:-

- "1. ----- to direct the Panchayat Secretary (Respondent No.3) to issue the death certificate of Late Padarath Kharwar, son of Late Shivdani Kharwar, who was the husband of the petitioner. He died on 25.4.2012 and also to direct the Director (Admn.) (Respondent No.4) to make details information regarding all retiral terminal benefit of her late husband Padarath Kharwar for which Respondent No.4 has demanded the succession certificate."



As a matter of fact, the aforesaid prayer and the purpose which now the petitioner wants to expand are at variance. The petitioner, at the end of the day, wants to claim the retirement benefit of her husband Late Padarath Kharwar. For this purpose, she had approached the competent authority who, by an order dated 4.1.2013, had advised her to produce the succession certificate from the court of law in support of her claim for terminal benefit of her husband Late Padarath Kharwar.

Somehow, the petitioner, on her own or on being advised, had filed an application for issuance of death certificate and when that was not being issued, the present writ application was filed with a prayer already quoted above.

The death certificate now has been issued as is being now stated by the learned counsel for the respondents. In fact, the copy of the certificate is also produced which is dated 8.4.2015. If that can serve the purpose of the petitioner probably the writ application has become infructuous.

Mr. Madhusudan Kumar now wants this Court to direct the authorities to first disclose as to what amount the husband of the petitioner was entitled to get so that the petitioner can claim those amount. Unfortunately, Mr. Kumar has chosen a wrong forum. This High Court is not an extension counter of providing information.



Realizing this that Mr. Kumar would now pray that the petitioner may be allowed to file civil suit impleading the other lady or her heirs whose name was mentioned by the husband of the petitioner in the service records to receive terminal benefit. It thus becomes clear that the petitioner either on her own or on her being wrongly advised has chosen to file this writ application. As a matter of fact, Annexure-3 the order of the competent authority had left with no option with the petitioner save and except to file a properly constituted civil suit seeking a declaration that she was the rightful widow and legally entitled to receive all the death cum terminal benefit of her husband Late Padarath Kharwar. At that stage, any one after citation of the notice being issued by the Civil Court could be appeared and could have contested such claim of the petitioner and only after the petitioner could have proven as per the law prescribed that she was the rightful widow to receive the claim of her husband, that she could have been paid retirement benefit. It is never too late in the day to amend the mistake, which was committed by the petitioner in filing this writ application.

That being so, no relief can be given to the petitioner in this writ application but at the same time it has to be made clear that nothing said in this order shall come in the way of the petitioner in filing a proper suit before the competent court for claiming a

declaration that she, the widow of Late Padarath Kharwar, is legally entitled to receive all death-cum-retirement benefit of her husband.

When such an observation has been made, learned counsel for the petitioner seeks permission to withdraw this writ application to file civil suit.

This application is, accordingly, permitted to be withdrawn with the aforementioned liberty observation.

(Mihir Kumar Jha, J)

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