

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5187 of 2015

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Most. Parwati Devi wife of Late Bindeshwari Paswan resident of 54, Dhat Tola and Santhali, Village: Pachira, Anchal : Raniganj, District: Araria-PIN: 854334, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar represented through the Secretary Home (Police) Department, Government of Bihar, Patna; null null
2. The Deputy Secretary, Home (Police) Department, Government of Bihar, Patna;
3. The District Magistrate, Araria
4. The District Provident Fund Officer, Purnea;

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv & Mr. Sanjay Kumar Sharma, Adv

For the State : Mr. A. Shakoor AC to GP-29

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 21-04-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application for a direction to the respondents to make payment of family pension and other pensionary benefits on account of death of her husband, late Bindeshwari Paswan, a Chowkidar, would largely depend on the eligibility of the petitioner.

Normally, the petitioner being the wife was always entitled to get all the retirement benefits after the death of her husband. Here however the petitioner is the second wife. The husband of the petitioner being Hindu, his second wife cannot have any right to receive the



retirement benefits even when her name may have been entered as nominee in the service records of the petitioner. This court infact in absence of pleading on this issue is also not aware as to whether such entry of name of the petitioner in service records of the alleged husband of the petitioner was made after giving permission and/or approval to the husband of the petitioner for entering into second marriage with the petitioner during the life time of his first wife, namely Amla Devi .

Since the issue has become jinxed on account of dispute between the first wife namely, Amla Devi and the petitioner admittedly being the second wife, it would be absolutely necessary for the petitioner to get a succession certificate by getting declaration after impleading all the respondents and also Amla Devi from the competent Court that she was legally wedded wife of Late. Bindeshwari Paswan and would be entitled for at least 50 per cent of the family pension as well as other retirement benefits.

Till such a declaration from the Civil Court by

way of succession certificate is not obtained by the petitioner, this Court would find it difficult to direct the respondents to make payment of family pension and other retirement benefits of late Bindeshwari Paswan to the petitioner at the cost of Amla Devi, the first wife, who has also not been party to this writ application.

With the aforementioned observation, this application is disposed of.

(Mihir Kumar Jha, J)

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