

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.309 of 2013

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1. Kumar Murlidhar S/O Sachidanand Singh R/O Vill.- Kasba, P.O.- Majhouli, Via-Khusrupur, P.S. Bakhtiarpur, Distt.-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General of Police, Patna Region, Patna
3. The Superintendent of Police, East Champaran, Motihari
4. Sumitra Devi W/O Kumar Murlidhar R/O Vill.- Kasba, P.O.-Majhouli, Via-Khusrupur, P.S.- Bakhtiarpur, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AMBUJ NAYAN CHAUBEY
For the Respondent State: Mr. AC to PAAG
For Respondent No. 4 : Mr. Shakti Suman Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 24-08-2015

Petitioner is a government servant and that too, an employee of a department which has duty cast upon them, to ensure that common citizens abide by law. He is holding the post of Assistant Sub Inspector and posted at Govindganj Police Station, in the district of East Champaran at Motihari. He has approached the Court under Article 226 of the Constitution of India challenging a decision of the Superintendent of Police, who has ordered payment of 50% of salary of the petitioner to respondent No.4 Sumitra Devi, who also happens to be a wife of the petitioner.

2. According to the petitioner's stand, respondent No.4 happens to be the second wife and one Nilu Devi is said to be the first wife. This fact, however, has been denied by respondent No.4 in the counter affidavit, served and filed that she is the second wife.

3. It makes no difference whether respondent No.4 is the first wife or the second wife. Respondent No.4 is a wife of the petitioner and legally married to him is not being disputed by the petitioner. The Court however can very well understand as to why the petitioner is trying to show that respondent No.4 is the second wife and not the first wife.

4. Respondent No.4 has three sons. They have been abandoned by the petitioner to their fate and since they had no alternative source of income to take care of themselves, respondent No.4 approached the Superintendent of Police, East Champaran, making a grievance and complaint against the conduct of the petitioner.

5. The Superintendent of Police has an obligation to ensure that even the family member of an employee under his jurisdiction and control conducts himself in a reasonable and fair manner befitting the status as a government servant. If he has given an order for payment of 50% of salary, then that was least, which was required to be done especially if the petitioner is not willing to take care of the respondent No.4 and the three sons, who were born out of the said wedlock.

6. The Court would further like to clarify that in the given facts and circumstances as well as in the interest of justice, no interference is warranted with D.O. No. 2048/2012 dated 20th October, 2012 because it will be rewarding the petitioner who has refused to carry out the solemn duty of maintaining his family members, who are suffering because of the conduct of the petitioner, He has been neglecting them, which is not only an offence but also in breach of Service Conduct Rules and guidelines

issued by the State of Bihar with regard to such employee.

7. The Court, however, would like to clarify that so far as impugned order is concerned, the said order of 50% deduction would not be on 'take home salary' of the petitioner but on 'actual gross salary' of the petitioner. 50% therefore would be deducted from the gross salary of the petitioner and paid to respondent no.4 regularly or else the Superintendent of Police has freedom to take appropriate disciplinary action against him, if required.

8. Any violation of the direction issued by this Court in the present writ application will be treated as contempt if such a matter is brought to the notice of the Court, if any person creates impediments in implementation of this order.

9. Writ application stands dismissed with above direction to the Superintendent of Police, East Champaran at Motihari.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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