

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9866 of 2016

Radha Devi, Wife of Late Subhash Prasad, residence of village-Barka Dhakaich, Post Office-Barka Dhakaich, Police Station-Simri, District-Buxar. At present C/o Sri Ram yada, I.B.M. Colony, House No. 01/B-366, Post-Kathara, District-Bokaro, Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Agriculture, Bihar Patna.
2. The Commissioner, Employee Provident Fund, R-Block, Patna.
3. Director, Directorate of Agriculture, Vikash Bhawan New Secretariat, Patna.
4. Joint Director, Plant Protection, Bihar, Mithapur Agriculture Farm, Patna.
5. Assistant Director, Plant Protection, Joint Agriculture Building, Fajalganj, Sasaram, Rohtas-8251115.
6. (i) Pius Kumar, aged about 14 years.
(ii) Laxmi Kumari, aged about 11 years
(iii) Manika Kumari, aged about 9 years
(iv) Annu Kumari, aged about 6 years.
All minor son and daughter of deceased Subhash Prasad represented through legal guardian Asha Devi, Wife of Late Subhash Prasad.
7. Asha Devi, second wife of Late Subhash Prasad, both resident of village+ Post Office-Barka, Dhakaich, Police Station-Simri, District-Buxar.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar with
Mr. Sunil Kumar Singh, Advocates.
For the State : Mr. Raghwanand, GA-11
Mr. Sanjay Kr. Tiwari, AC to GA-11
For the EPFO : Mr. Ranjit Sinha, Advocate.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the parties.

The petitioner has assailed the order contained in Memo No. 89/1678 dated 31.12.2014 issued by the respondent no. 4, by which the pensionary benefits of the late husband of the petitioner are to be divided by paying 50% to the petitioner and the rest 50% to the four minor children from the second wife.



Learned counsel for the petitioner submits that she, being the first wife is entitled to 100% family pension. However, he submits that with regard to all other retiral benefits, she, along with the other heirs from the second wife be paid in accordance with the Hindu Succession Act as such benefits have been accepted to be the property/estate left behind by the deceased.

Learned counsel for the State submits that payment shall be made in accordance with law.

Having considered the rival contentions, this Court finds that such direction cannot be sustained on the ground that as a matter of policy the State Government has decided that the family pension for the deceased employee is to be divided by paying 50% to the first wife and 50% to the minor children of the second wife but with regard to other dues, the same have to be paid in terms of their share as per the Hindu Succession Act.

Accordingly, the authorities are directed to make payment of 50% family pension to the petitioner and to the extent of her part along with the other heirs of the deceased as per the Hindu Succession Act, with regard to other dues. The order should be complied with, failing which the concerned respondents shall make themselves liable to be proceeded against.

Learned counsel for the State shall ensure that the

order is communicated to the respondent no. 4 for compliance.

The writ application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A