

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.420 of 2014

Arising out of
Civil Writ Jurisdiction Case No. 2973 of 2004

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Raja Devi Wife Of Late Ramdhari Singh Resident Of Village- Puranea,
P.O.+P.S.- Minapur, District- Muzaffarpur

.... Appellant/s

Versus

1. The State Of Bihar through Secretary, Govt. Of Bihar, Patna
2. Secretary, Home (Special) Department, Govt. Of Bihar, Patna
3. Deputy Secretary, Home (Special) Department, Govt. Of Bihar, Patna
4. The Union Of India through Secretary, Home Affairs Lok Nayak Bhawan, Khan Market New Delhi
5. The Under Secretary, Govt. Of India Home Affairs, Lok Nayak Bhawan Khan Market, New Delhi
6. The District Magistrate Cum Collector, Muzaffarpur
7. The Treasury Officer, Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar Sinha, Advocate

For the Respondent/s : Mr. M. N. H. Khan, SC-1

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
CAV JUDGMENT**

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 16 -11-2016

Heard learned counsel for the parties.

2. The present Letters Patent Appeal has been filed by
the appellant against the order dated 23.01.2009 passed by the learned

Single Bench by which C.W.J.C. 2973 of 2004 filed by her has been dismissed.

3. The appellant claims to be the widow of late Ramdhari Singh, who was granted Freedom Fighter pension with effect from 15.08.1972. Upon the death of the Freedom Fighter, the family pension was transferred to Raja Devi (ostensibly the appellant). Upon the complaint received from the villagers that the appellant was not the widow of the late Freedom Fighter but his grand daughter-in-law, the family pension was suspended and show cause notice was issued by letter dated 04.12.1995. Upon show cause reply received from the appellant, the District Magistrate, Muzaffarpur was requested for a report regarding the actual age and relationship of the appellant with the late Freedom Fighter, which was sent on 14.10.1996 indicating that the appellant was aged 40 years and also was the widow of the late Freedom Fighter. Since, the application submitted by the late Freedom Fighter for grant of pension in 1972 showed that his wife was 50 years old whereas the age of the Freedom Fighter was 60 years, he had a 12 years son and 16 years daughter, the District Magistrate, Muzaffarpur was again requested to clarify as to whether the appellant was the same lady whose particular was given by the late Freedom Fighter in his application for pension as there was a huge difference between the age of the late Freedom Fighter and the



appellant. The District Magistrate in his report sent in June, 1998 informed that the appellant was married to the late Freedom Fighter in the year 1970 at the age of 16. A clarification was again sought from the District Magistrate, Muzaffarpur on this point. The District Magistrate under letter dated 15.10.1999 forwarded a report of the Circle Officer, Meenapur in which it was stated that the late Freedom Fighter at the time of his death in 1980 was 68 years old and the age of the appellant in the year 1999 was 43 years. In view of such position, clarification was sought from the appellant under letter dated 10.04.2000. The appellant moved this Court against the same in C.W.J.C. No. 10484 of 2000 which was disposed off on 23.10.2000 with a direction to examine the reply submitted by the petitioner to the show cause notice within four weeks of receipt of a copy of the order. The reply was examined and clarifications were sought from the State Government/District Magistrate by letter dated 11.10.2000. Due to the Court fixing a time limit for taking a decision in the case and no reply received from the State Government/District Magistrate, the family pension sanctioned to the appellant was cancelled by letter dated 21.12.2000. The appellant thereafter again filed C.W.J.C. No. 1812 of 2001 to quash letter dated 21.12.2000 and the same was dismissed by order dated 13.02.2001. L.P.A. No. 296 of 2001 filed against the order was disposed off on 18.07.2001 directing that if the report was



received from the State Government disclosing fresh material, then her case be considered afresh in accordance with law. The State Government was again requested by letter dated 01.11.2001 to get the matter investigated by a senior officer and sending a clear report. A report dated 10.02.2003 was received from the State Government highlighting the fact that the appellant was 50 years old whereas in the application received in the year 1972, the late Freedom Fighter had disclosed the age of his wife as 50 years. A report was also received from the Director, National Planning Programme indicating that the appellant was the only widow of late Freedom Fighter, however, the same was based on the letter of the *Mukhiya* of the *Panchayat*, without any other supporting document. Relying upon the report of the State Government/District Magistrate, Muzaffarpur a decision was taken not to restore the cancelled pension of the appellant and she was informed through letter dated 22.07.2003. The appellant challenged the report of the State Government dated 10.02.2003 as well as the communication from the Union of India dated 22.07.2003 refusing to restore her pension in C.W.J.C. no. 2973 of 2004 and order dated 23.01.2009 passed by the learned Single Judge in the writ petition is the subject matter of the present appeal.

4. Learned counsel for the appellant submitted that nobody had appeared on behalf of the petitioner before the learned



Single Bench due to which matters were not properly appreciated by the Court. Learned counsel contended that in view of there being conflicting reports from various authorities, the Court ought to have directed for a fresh enquiry so as to ensure that correct facts came before the authorities. It was submitted that young age of the appellant could not be taken as a factor against her as it was not uncommon at the relevant time for a girl to marry at a young age.

5. Learned counsel for the respondents submitted that the facts are so compelling that further enquiry would be a futile exercise. It was submitted that the only factor in favour of the appellant is that the local *Mukhiya* had stated that she was the widow of late Freedom Fighter whereas on the other hand all reports including that of the doctor with regard to the age of the appellant, the entries made by the late Freedom Fighter with regard to the age of his wife and children in the year 1970 etc. establish beyond doubt that the appellant could not be widow of the late Freedom Fighter.

6. Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeal. The facts which have not been denied by the appellant are that she was aged about 16 years in the year 1970 and that the late Freedom Fighter at the time of filling up the application for grant of such pension somewhere in the year 1970-72 had stated his age as 60 years and that of his wife as 50



years and had also mentioned about his son's age 12 years and daughter's age 16 years. Thus, it leaves no doubt that the appellant, who has been found to be about 40 years in the year 1996 by a medical practitioner, could not have been mentioned in the form filled up by the late Freedom Fighter to be 50 years in the year 1970 as she would have been about 14 years of age. Moreover, the clinching evidence against the appellant is in the form filled up by the late Freedom Fighter in the year 1970 he had stated that he had a son aged 12 years and daughter aged 16 years and, thus, the appellant under no circumstances could be the mother of said two children when she herself was only 14-16 years of age at that time. Further, we are in agreement with the reasoning given by the learned Single Bench in order dated 23.01.2009, for not interfering in the matter.

7. In view of the aforesaid, the Letters Patent Appeal stands dismissed.

8. We are persuaded to comment that the appellant seems to be a persistent litigant inasmuch as this is the 6th round of litigation before the High Court at her instance for a cause which clearly is not only misplaced but an attempt to commit fraud on the system by somehow trying to get the benefit of Freedom Fighter pension, which is for a noble cause, to honour the Freedom Fighters of this country, through highly questionable means and for which

suitable action was called for, but in view of her being a lady, we refrain from doing so.

(Ahsanuddin Amanullah, J)

Hemant Gupta, ACJ *I agree.*

(Hemant Gupta, ACJ)

Anjani/-

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