

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20049 of 2014

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Smt. Shail Mishra, wife of Sri Bijendra Kumar Mishra, daughter of Shri Gunakar Mishra, resident of village & P.O. Hariharpur, via- Pindaruch, Police Station- Kamtaul, District- Darbhanga (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the General Manager, North Frontier Railway, Maligaon, Guwahati-11 (Assam).
2. The Financial Advisor & Chief Accounts Officer, North Frontier Railway, Maligaon, Guwahati-11 (Assam).
3. The Chief Personnel Manager, North Frontier Railway, Maligaon, Guwahati-11 (Assam).
4. The Divisional Railway Manager, North Frontier Railway, Katihar (Bihar).
5. The Divisional Railway Manager (Personnel), North Frontier Railway, Katihar (Bihar).
6. The Deputy Financial Advisor & Chief Accounts Officer (Con.), North Frontier Railway, New Jalpaiguri.
7. Sri Bijendra Kumar Mishra, son of late Diwakar Mishra, resident of village- Bhojparaul, P.S. Bisfi, District- Madhubani at present retired A.F.A. Railway Electrification, North Frontier Railway, New Jalpaiguri (West Bengal).

.... Respondent/s

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Appearance :

For the Petitioner : Mrs. Veena Kumari Jaiswal, Advocate.
Mr. Vivekanand Vivek, Advocate.

For the Respondents : Mr. Anil Singh, Advocate.
Mr. Ram Chandra Jha Raman, Advocate.
Mr. Subodh Kumar Jha, Advocate.
Mr. Sarveshwar Tiwari, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-04-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order dated 2nd May 2013 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as “the Tribunal”) in O.A. No. 254 of 2013, whereby the claim of the petitioner for grant of family pension was

rejected for the reason that dispute between husband and wife can be adjudicated only in the Civil Court.

3. The respondent no. 7 is the husband of the present petitioner. He retired from Government service and is drawing pension. The petitioner claims amendment in the Pension Payment Order so as to incorporate her name for drawing of the pension, as her husband is not maintaining her.

4. We do not find that the petitioner can be granted part of the pension during the life time of her husband. The Tribunal has found that the disputes between husband and wife are in the nature of civil dispute, which can be decided only by virtue of remedy available before the Civil Court. The petitioner has an adequate, effective and alternative remedy for claiming maintenance from her husband.

5. Therefore, we do not find any error in the order passed by the Tribunal, which may warrant interference in the present writ application.

6. The writ application stands dismissed accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar
N.A.F.R.

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