

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8273 of 2014

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Smt. Tara Muni Devi, Wife of Late Lakshman Lal, resident of Village Hatpokhar,
P.O- Marudhi, P.S- Jagdishpur, District- Bhojpur (Ara)

.... Petitioner

Versus

1. The State of Bihar
 2. The District Magistrate, Bhojpur (Ara)
 3. The Block Development Officer, Bihia, District- Bhojpur (Ara)
 4. The Treasury Officer, Bhojpur (Ara)
 5. The District General Provident Fund Officer, Bhojpur, Ara.
 6. The Accountant General, Office at Birchand Patel Path, P.S- Kotwali, District- Patna.
 7. The Branch Manager, the State Bank of India, Branch, Bihia.
 8. Niranjana Prasad Srivastava
 9. Manoj Kumar
- Both are sons of Late Lakshman Lal resident of Village Hatpokhar, P.O- Maraudhi, P.S- Jagdishpur, District- Bhojpur, Ara.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Pandit Jee Pandey, Advocate.
Mr. Nawnit Kr. Tiwary, Advocate.

For the State : Mr. Md. Irshad, AC to SC-1.

For the Accountant : Uday Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 17-09-2016

Heard learned counsel for the parties.

2. The petitioner is the second wife of the deceased Lakshman Lal who attained the age of superannuation on 31.01.2011. Soon after his retirement, he died on 07.12.2011. From his first wife, he has two daughters and two sons. Daughters are married and the sons are respondent nos. 8 and 9 in the present petition. Respondent nos. 8 and 9 have filed a writ petition bearing

CWJC No. 1339 of 2013 seeking a direction to settle their claim in the share of retiral benefits. This Court directed to obtain the succession certificate in such writ petition. Admittedly, such succession certificate has yet not been granted.

3. The grievance of the petitioner is that the husband of the petitioner sought commutation of pension and on account of the said fact, the reduced amount of family pension is being paid to the petitioner for the reason that pension has been commuted. The petitioner asserts that she should get the commuted value of pension as well so that she can lead proper life after the death of her husband.

4. I have heard learned Counsel for the parties and find that no direction is called for at this stage.

5. The husband of the petitioner has opted for commuted value of the pension. Once the husband of the petitioner has opted for commutation, same commutation cannot be revoked or modified after his death. As per the order passed in writ petition, succession certificate has to be obtained. Therefore, the assertion of the petitioner is that commuted value of pension should be paid to her as she is being paid family pension after accounting for the commuted pension is not tenable. The commuted pension is to be given as per choice of her husband. The petitioner cannot say that either full family pension or the commuted amount of pension should

be paid to her cannot be accepted. Such questions including the share of the petitioner can be appropriately adjudicated upon in succession certificate proceedings. Therefore, there cannot be any direction to pay full family pension to the petitioner as the part of the pension stands commuted and the amount of family pension has been reduced on account of action taken by her husband.

6. In view of the said fact, I do not find any merit in the present petition and the same is dismissed.

(Hemant Gupta, J.)

Mishra/-

AFR/NAFR	A.F.R
CAV DATE	N.A.
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