

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3267 of 2015

IN

Civil Writ Jurisdiction Case No. 455 of 2011

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Kishori Devi Wife of late Ram Singhasan Singh Resident of Village- Bharwari, P.s
Sakra, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar Old
Secretariat, at Patna.
3. The Director General of Police, Bihar, Patna.
4. The I.G. Police Muzaffarpur Circle, Muzaffarpur.
5. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
6. The Superintendent of Police 'B' Special Branch, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Adv.

For the Respondent/s : Mr. Rajesh Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 31-08-2016

Heard learned counsel for the petitioner and the learned
counsel for the State-respondents.

The present application has been filed praying for
restoration of C.W.J.C. No. 455 of 2011 which stood dismissed for
default for non-appearance on 25.09.2014. This application has been
filed on 04.12.2015 after lapse of more than one year.

While explaining the delay and cause of non-appearance
on behalf of the petitioner on 25.09.2014, the averments have been



made by the petitioner that though the writ application was filed on 2011 but subsequently on 01.12.2012 another advocate was engaged by the petitioner to whom the petitioner gave the Vakalatnama with no objection certificate from her previous advocate. It has been further averred that on 08.10.2015, which is after lapse of nearly three years, the petitioner approached the said counsel to whom the fresh Vakalatnama was given making inquiry about the case and at that stage it was discovered that the said Vakalatnama with no objection was not filed in the writ application. It further transpires from the averments that the son of the petitioner thereafter took the brief from that advocate and handed it over to the another advocate on 12.10.2015 along with Vakalatnama. The said new advocate thereafter has filed the present restoration application on 04.12.2015.

Learned counsel for the petitioner, in order to persuade this Court regarding the merits of the case of the petitioner has pointed out the facts of the case. The learned counsel for the State-respondents has also made submission in reply. After considering the submissions as well as the averments made in the present application for restoration, it has transpired that the issue of grant of promotion to the husband of the petitioner was finalized by the decision and publication of seniority list by the respondents long back and the grievance in that regard was also raised by the husband of the



petitioner by filing writ petition before Ranchi Bench of this Court being C.W.J.C. No. 2160 of 1990. It has also transpired that the husband of the petitioner died in the year 2001 and thereafter the present petitioner being his widow filed C.W.J.C. No. 6339 of 2002 before this Court for payment of retiral dues which prayer was allowed. It has, however, been not explained on behalf of the petitioner as to whether the relief as claimed in the present writ application was prayed in the above said writ application filed in the year 2002 before this Court. It further appears that thereafter the petitioner filed another writ application i.e. C.W.J.C. No. 18067 of 2008 which was also disposed of in the year 2010 by order dated 06.05.2010 granting the relief to the petitioner for filing her representation before the respondents with regard to her claim. After the decision by the respondents declining the claim of the husband of the petitioner, which was also contested by him, the C.W.J.C. No. 455 of 2011 was filed in the year 2011 before this Court which was dismissed on 25.09.2011 as not pressed. The present restoration application has now been filed on 04.12.2015.

In the aforesaid background of facts, this Court is not impressed with the submission made on behalf of the petitioner that the petitioner who had been so ardently pursuing the matter had remained oblivious of the development of the case for long many

years even after thrice replacing advocates. Further also the details of the said fact of engaging new advocates from the year 2012 upto 2015 has been omitted in the restoration application.

After considering the facts and submissions, this Court is not inclined to allow the prayer for restoration. The restoration application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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