

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19985 of 2013

Daro Devi W/O Sri Ram Bhajju Prasad Resident Of Village- Math Gulani, P.O.- Barigulani, P.S.- Pakaribarawan, Distt.- Nawadah, At Present Residing At Village- Khutkat, P.S.- Sikandra, District- Jamui

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Animal Husbandry, Bihar, Patna
3. The Regional Director, Animal Husbandry, Gaya
4. The District Animal Husbandry Officer, Nawadah
5. Ram Bhajju Prasad Son of Late Lalan Mahto Resident Of Vill.- Mathgulani, P.O.- Bari Gulani, P.S.- Pakari Baraman, Distt.- Nawadah

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. PRAKASH MAHTO

For the Respondent/s : Mr. P.K. VERMA

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 02-09-2016

Heard Mr. Prakash Mahto for the petitioner and AC to AAG 3 for the State.

In spite of notice, no one has appeared on behalf of respondent no.5.

A counter affidavit on behalf of the State respondent(s) is filed. The same is, however, not on record.

Office will track down and place the same on record.

There is no dispute that the petitioner is the first wife of respondent no.5 who was then an employee of the State Government in the Department of Animal Husbandry. It is stated while respondent no.5 was in service he neglected in maintaining the petitioner and subsequently solemnized the second marriage with another lady. In the circumstances, the petitioner approached the authority of the State Government. On a consideration of the claim of the petitioner, a



direction was issued to the husband to pay Rs. 1200/- per month as maintenance to her. The petitioner continued to receive the said amount as directed by the authority. On 30.11.2011, the husband of the petitioner retired from the post of Chaukidar, Animal Hospital, Nawadah. It is stated that thereafter payment of the maintenance amount has been discontinued. By filing the present writ application, the petitioner prays for a direction upon the respondents to direct respondent no.5 to continue to pay the maintenance to her. She has also claimed a proportion of the retiral dues/benefits payable to her husband upon superannuation. A clarification in this regard was sought by the District Animal Husbandry Officer. However, it is an admitted position that all retiral dues have been authorized in favour of the husband of the petitioner.

The first claim over the retiral benefits is that of the employee. The legally-wedded wife is entitled to receive family pension upon the death of the pensioner. The petitioner could have approached the authority for the said relief or knocked the doors of the family court for granting her maintenance.

The counsel for the State drawing attention of the Court to the affidavit affirmed by respondent no 5 (Annexure-F), has submitted that the employee (respondent no.5) has filed an affidavit that upon his death the family pension shall be payable to the petitioner being his legally-wedded wife. He has also given an undertaking to maintain the petitioner until he is alive.

Be that as it may, looking to the nature of grievance made in the writ application as also the fact emanating from the records, the ends of justice shall be subserved if the petitioner is permitted to approach the concerned respondent for the said relief. It shall also be open to her to approach the family court for grant of maintenance in her favour if the respondent no.5 has failed to pay the same after his superannuation. Needless to observe that if any such representation is

filed before the Director, Animal Husbandry, the said respondent will examine her grievance and take appropriate decision and/or pass appropriate order in accordance with law.

(Kishore Kumar Mandal, J)

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