

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22676 of 2011

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1. Aash Muni Kunwar W/o Late Shree Bhagwan Ram Resident of Village- Basdiha, P.O- Ghoradiha, P.S- Kargahar, Dist- Rohtas, At Present Resent of Mohalla- Khilanganj, P.S- Sasaram, Dist- Rohtas.
 2. Priyanka Kumari D/O Late Shree Bhagwan Ram Resident Of Village- Basdiha, P.O- Ghoradiha, P.S- Kargahar, Dist- Rohtas, At Present Resent Of Mohalla- Khilanganj, P.S- Sasaram, Dist- Rohtas.
 3. Neha Kumari D/O Late Shree Bhagwan Ram Resident Of Village- Basdiha, P.O- Ghoradiha, P.S- Kargahar, Dist- Rohtas, At Present Resent Of Mohalla- Khilanganj, P.S- Sasaram, Dist- Rohtas.
 4. Deepak Kumar S/O Late Shree Bhagwan Ram Resident Of Village- Basdiha, P.O- Ghoradiha, P.S- Kargahar, Dist- Rohtas, At Present Resent Of Mohalla- Khilanganj, P.S- Sasaram, Dist- Rohtas.
 5. Badal Raj S/O Late Shree Bhagwan Ram Resident Of Village- Basdiha, P.O- Ghoradiha, P.S- Kargahar, Dist- Rohtas, At Present Resent Of Mohalla- Khilanganj, P.S- Sasaram, Dist- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Area Development Commissioner-Cum-Director, Sone Command, Area Authority, Sone Bhawan, Patna.
3. The Secretary, Sone Command Area Development, Agency, Sone Bhawan Bihar, Patna.
4. The Assistant Director, Sone Command Area Development Agency, Aurangabad, Daudnaga.
5. Kunit Kunwar W/o Late Shree Bhagwan Ram R/o Village- Basdiha, P.O- Baradih, P.S- Kargahar, Dist- Rohtas.
6. Rakesh Kumar S/o Late Shree Bhagwan Ram R/o Village- Basdiha, P.O- Baradih, P.S- Kargahar, Dist- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate.
Mr. Sanjay Kumar Tiwary, Advocate
For the State : Md. Anil Akhtar, AC to GA-1.
For the SCADA : Mr. Naresh Dixit, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 01-07-2016

Heard learned counsel for the petitioners, learned AC to
GA-1 for the State and learned counsel for the respondents no. 2 to 4.

The petitioner no. 1 claims to be the second wife of Shree Bhagawa Ram whereas petitioners no. 2 to 5 claim to be the children. The prayer in the writ petition is to apportion the death-cum-retiral benefits of late Bhagwan Ram between the first wife and his son and the petitioners, as per the relevant Government circulars.

It is submitted that the petitioners have also filed Title Suit No. 758 of 2009 at Sasaram for partition of the estate of the deceased employee, which is still pending.

From the counter affidavit filed on behalf of respondents no. 2 to 4, it appears that all retiral benefits have been paid to the first wife of the deceased i.e., respondent no. 5 and the respondent no. 6, who is his son from the first wife has also been given compassionate appointment. However, there is no mention with regard to entitlement of the petitioners or payment to them.

As per the relevant Rules and Regulations in existence, the first wife and children from the second wife are entitled to family pension and if petitioners no. 2 to 5 were minor, as on the date of death of the deceased, till they attained the age of majority or the age prescribed in the relevant Rules with regard to grant of family pension, they were also required to be paid 50% of the family pension sanctioned to the late employee.

This not having been done, to that extent, the

Department has to ensure that the petitioners are also given their share of 50% of the family pension for which necessary calculation has to begin from the date of death taking into consideration the age of the petitioners no. 2 to 5.

Accordingly, the writ petition stands disposed off with a direction to the respondents no. 2 to 4, to ensure that after computing of the entitlement of the petitioners no. 2 to 5, whatever is due to them, by way of family pension, to the extent admissible, is paid within two months from the date of production of a copy of this order before the respondents no. 2 to 4. The amount which shall be paid as arrears shall be recovered in easy installments from the family pension being paid to respondent no. 5. Henceforth, if any of the petitioners are still entitled to family pension, on account of them not having attained the maximum age, the same shall be paid to them till such time they are eligible under the relevant circulars of the State Government. With regard to the rest of the claims, which have already been paid to the respondent no. 5, like CPF, Gratuity and Earned Leave, the same shall abide by the result in Title Suit No. 758 of 2009. The Court, thus, deems it appropriate to direct the Court before which Title Suit No. 758 of 2009 is pending, to finally decide the same within six months from the date of production of a copy of this order before the Court concerned. The Court shall ensure that the

same is done within the time frame fixed by the Court by exercising
all its power available under law, even if the parties do not cooperate.

(Ahsanuddin Amanullah, J)

P. Kumar

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