

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11543 of 2016

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Ram Binod Kumar Singh son of Late Ram Gopal Singh, resident of village-
Perwezabad (Badurahi), P.O. and P.S.- Sonapur, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Civil Surgeon-cum- Chief Medical Officer, Hajipur, Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Shahabuddin Azeem @ S. Azeem, Advocate
	: Mr. Rajesh Kumar, Advocate
For the State	: Mr. Raj Kishore Ray, G.P.-18
For the Intervenor	: Mr. Ravi Shankar Sahay, Advocate
	: Mr. Ajay Nandan Sahay, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-04-2017

This writ application has been filed by the petitioner for payment of entire post retiral benefits and other consequential benefits thereof along with interest to him, who claims himself to be the husband of late Kumari Ranjana, Auxilliary Nurse Midwife, Primary Health Center, Patepur, Vaishali.

2. The petitioner claims himself to be the husband of the deceased Kumari Ranjana, Auxilliary Nurse Midwife, Primary Health Center, Patepur, Vaishali, who was appointed in the Health Department on 27.01.1989 as lady Health Worker and died in harness on 27.12.2015.

3. It is contended by the learned counsel for the petitioner that late Kumari Ranjana had entered the name of the petitioner as her



husband in her service book and other relevant records. Hence, he is entitled to receive the entire post retiral benefits along with statutory interest in accordance with law, but the same is illegally being denied by the respondents.

4. A counter affidavit has been filed on behalf of the respondents State in which it is contended that the deceased employee was initially married to one Krishnandan Sharma, but the said marriage was dissolved by a decree of divorce dated 21st March, 1994 passed by the learned Additional District Judge-1, Samastipur in Divorce Case No.22 of 1990/3 of 1992. It is further contended in the counter affidavit that the petitioner was a railway employee of the N.E. Railway Sonapur. In his statement showing the details of the members of the family for the purpose of family pension scheme in the statutory Form No.6 on 08.05.2003, he disclosed the name of Prabhawati Devi as his wife and Pankaj Kumar, Prashant Kumar and Shantu Kumar as his sons. It is further stated that the sons and daughter of the deceased employee and Krishnandan Sharma are also claiming rights to receive the retiral benefits of their mother. It is stated that from the report dated 02.11.2016 issued by the Circle Officer, Sonapur, Saran it was transpired that Gautam Kumar Chandan, Gunjan Kumari and Guddiya Kumari are son and daughters of late Krishnandan Sharma.



5. In view of the aforesaid contentious issues, learned counsel for the State submitted that the petitioner has been repeatedly asked to produce succession certificate for payment of retiral benefits of the deceased employee which he failed to do so. He submitted that in absence of any cogent material to show that the petitioner is actual legal heir of the deceased employee, he would not be entitled to the reliefs claimed in the present application.

6. Having noticed the stand of the respondent State, in reply to the question put by the Court learned counsel for the petitioner admitted that the aforesaid Prabhawati Devi is his wife and out of the wedlock three sons, namely, Pankaj Kumar, Prashant Kumar and Shantu Kumar were born. He also admitted that Prabhawati Devi is still alive and she is his first wife whereas the deceased Kumari Ranjana married him knowing to the fact that he has already married.

7. I have heard learned counsel for the parties and carefully perused the record.

8. The petitioner is a Hindu. Section 5 of the Hindu Marriage Act, 1955 (for short 'the Act') provides conditions for a Hindu Marriage. One of the conditions as prescribed under Section 5(i) of the Act is that neither party should have a spouse living at the time of marriage. Section 11 of the Act provides for void marriage. It states that any marriage solemnized after the commencement of the



Act shall be null and void if it contravenes any of the conditions specified in Clauses (i), (iv) and (v) of Section 5 of the Act.

9. The evidence on record clearly shows that prior to 21.03.1994 the deceased employee was married to one Krishnandan Sharma. In that view of the matter, the so called marriage of the petitioner with the deceased employee could not have taken place prior to the date of decree of divorce i.e., 21st March, 1994. Thus, it would be evident that the alleged marriage with the deceased employee was solemnized after commencement of the Act. In that view of the matter, the marriage itself was void as it could not have been solemnized when the petitioner had spouse living at the time of marriage. Further, in terms of the Bihar Pension Rules under the liberalized pension scheme, family for the purpose of family pension scheme relatives like wife, husband, minor sons and unmarried minor daughters. It is true that family pension is admissible to a widower under the Bihar Pension Rules. However, such pension is admissible only upto the date of death or remarriage whichever is earlier.

10. Here in the present case, the admitted position is that the marriage of the petitioner with the deceased employee was itself void and the petitioner at the time of void marriage was already having a spouse living. It is also an admitted fact that the legally wedded spouse of the petitioner is still living. In that case in the



considered opinion of the Court, the petitioner would not be entitled to the reliefs as claimed by him in the present application. In the opinion of the Court the so called marriage of the petitioner with the deceased employee was a bigamous marriage and the same would not confer any right upon him to receive family pension even if his name has been mentioned as husband in one or the other record of the deceased employee.

11. For the reasons stated hereinabove, the application being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.04.2017
Transmission Date	

