

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1912 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 18252 of 2015

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1. Smt. Arti Kumari @ Arati Singh wife of Late Binay Kumar Singh
 2. Sumitra Devi wife of Mohanlal Mandal
 3. Mohanlal Mandal son of Late Babu Lal Mandal
 4. Vaibhav Singh son of Late Binay Kumar Singh, minor represented through his natural guardian and mother Arati Kumari @ Arati Singh wife of Late Binay Kumar Singh All residents of village Bahorna, P.S. Belhar, District Banka.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
3. The Agriculture Director, Bihar, Patna.
4. The Joint Director (Shasya) Purnea Division, Purnea.
5. The District Agriculture Officer, Purnea.
6. The District Provident Fund Officer, Purnea.
7. The Accountant General, Bihar, Patna
8. Smt. Sangeeta Devi wife of Late Binay Kumar Singh resident of village and post Bahorna, P.S. Belhar, District Banka, presently residing with her father namely Gajendra Narayan Mehta, village Murli Basantpur, P.S. Bangaon, District - Saharsa.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Ranjan No. 1, Advocate
Mr. Atul Shankar, Advocate

For Respondent No.8 : Mr. S.C. Jha, No. 3, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 23-08-2017

Having heard learned counsel for the parties at length and on considering various aspects of the matter, we find that even though Appellant No. 1 herein may not be entitled to any benefit accruing out of her marriage to the employee concerned late Binay Kumar Singh but Appellant No. 4 Vaibhav Singh, the minor son of late Binay Kumar Singh, born out of the relationship of late Binay Kumar Singh with the present Appellant No. 1, would be entitled to his share of the post retiral benefits in the light of the law laid down by the Supreme Court in the case of **Rameshwari Devi Vs. State of Bihar and others- A.I.R. 2000 Supreme Court 735** wherein it has been held that a child born to a deceased Hindu employee from a second wife, even during the subsistence of the first marriage, is entitled to gratuity and pensionary benefits payable after death of the Government employee.

Keeping in view the aforesaid, we direct the authorities of the department concerned that while settling the pensionary claim with regard to the deceased employee Binay Kumar Singh, they shall take note of the aforesaid law and grant the share as is payable to the minor son Appellant No. 4 herein namely Vaibhav Singh through his



natural guardian Appellant No. 1, in accordance to the rules.

With the aforesaid modification in the order passed by the learned Writ Court on 16.09.2016 in C.W.J.C. No. 18252 of 2015, the Letters Patent Appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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