

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6387 of 2016

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1. Gayatri Devi widow of Late Kapildeo Ojha
 2. Pooja Kumari unmarried daughter of Late Kapildeo Ojha
 Both resident of village and Post Office- Vishnuduttpur, Police Station-
 Kanti, District-Muzaffarpur

.... Petitioner/s

Versus

1. The General Manager, North Eastern Railway, Gorakhpur
 2. The General Manager, East Central Railway, Hajipur
 3. The Divisional Railway Manager, East Central Railway, Samastipur
 4. The Divisional Railway Manager, East Central Railway (Personnel),
 Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nazmul Hoda
 For the Respondent/s : Mr. Mahesh Prasad

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

- 03 10.08.2017 1. Heard learned counsel for the petitioners as well as
 learned counsel for the respondents.
2. Petitioner no. 1 happens to be widow whereas petitioner
 no. 2 is unmarried daughter of late Kapildeo Ojha. It is alleged that
 late Kapildeo Ojha was an employee of the railway and superannuated
 from service in 1994. Late Kapildeo Ojha was getting pension but
 unfortunately, he died in the year 2008.
3. It would appear from pleadings of the petitioners that late
 Kapildeo Ojha had two wives. First wife, namely, Siya Devi died on
 17.3.2009. Petitioner no. 1 is second wife of late Kapildeo Ojha
 whereas petitioner no. 2 is unmarried daughter of late Kapildeo Ojha
 so far as remaining daughter of late Kapildeo Ojha are concerned, they
 are admittedly married and leading their married life with their



respective husbands.

4. It would further appear that petitioners claimed for grant of family pension by filing petition dated 15.3.2013 before Mandal Rail Prabhandak (Karmik) and in response to the aforesaid petition, Mandal Rail Prabhandak (Karmik), Samastipur vide letter no. Ra Ka/207/ yatrik/ late K.D. Ojha/XIII/2014 dated 18.2.2014 asked the petitioners to submit succession certificate granted by the competent authority and other relevant documents and petitioners got succession certificate and other relevant documents from the competent authority and again, applied in proper format on 15.3.2014 but even then family pension was not granted to the petitioners.

5. Counter affidavit has been filed and it has been pleaded in the counter affidavit that the petitioners ought to have approached Central Administrative Tribunal but in stead of Central Administrative Tribunal, petitioners directly approached this court and, therefore, this writ petition is not maintainable. Furthermore, respondents took defence that second wife is not entitled for family pension as the deceased employee solemnized his second marriage in the life time of his first wife. It has also been stated in the counter affidavit that names of the petitioners have not been mentioned by the deceased in the pension paper and, therefore, both petitioners are not entitled to get benefit of family pension.

6. Therefore, in view of the aforesaid pleadings as well as taking note of the aforesaid submissions of the parties, this writ petition stands disposed of giving direction to respondent no.3(The Divisional Railway Manager, East Central Railway, Samastipur) to



dispose of annexure 7 to the writ petition, application for grant of family pension filed on behalf of the petitioners, by reasoned order in accordance with law within three months from the date of receipt/production of a copy of this order and if claim of the petitioners is found genuine, respondent no.3 shall ensure payment of dues amount within the above stated period of three months and furthermore, if claim of the petitioners is rejected, the same shall be communicated to the petitioners within two weeks thereafter.

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(Hemant Kumar Srivastava, J)

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