

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7015 of 2016

Along with
Interlocutory Application No. 8308 of 2016

=====

Rekha Sinha, Wife of Late Rajesh Kumar, Resident of Mohalla - Chhoti Pahari,
Police Station - Sohsarai, Bihar Sharif, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Bihar, Patna.
3. The Civil Surgeon-cum-Chief Medical Officer, Jehanabad.
4. The In-charge Medical Officer, Primary Health Centre Hulasganj, Jehanabad.
5. The Treasury Officer, Nalanda.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh and
Mr. Manish Prakash, Advocates

For the Respondent/s : Dr. Anshuman, S.C. 14

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-11-2017

Re.: Interlocutory Application No. 8308 of 2016

2. Heard learned counsel for the petitioner; State and the
intervenor applicant.

3. The present Interlocutory Application has been filed
for adding Anju Devi, the applicant of the Interlocutory Application
as party respondent.

4. Learned counsel for the proposed intervenor
submitted that she is the second wife of the deceased Rajesh Kumar
and thus is also entitled to her share in his death-cum-retiral benefits.

5. Having considered the matter, the Court deems it
appropriate to add the intervenor as respondent no. 6.



6. Interlocutory Application No. 8308 of 2016 stands disposed off.

Re.: Civil Writ Jurisdiction Case No. 7015 of 2016

7. The petitioner has moved the Court for the following reliefs:

“For issuance of a writ in the nature of mandamus or any other appropriate writ for directing the respondents to release the payment of Pension, Gratuity and other retiral dues including GPF to the petitioner in pursuance of the P.P.O. No. 201612041211, issued by the Office of the Accountant General (A & E), Bihar, Patna vide Pension Intimation Memo dated 05.02.2016 and G.P.O. No. 201612041211GO, issued by the Office of the Accountant General (A & E), Bihar, Patna vide Death-cum-Retrial Gratuity Payment Order dated 08.02.2016.

ii) For holding that the delay in payment of post retiral dues to the petitioner after death of her husband during service tenure, has not only caused immense hardship to the petitioner but also is unreasonable, arbitrary, and illegal for which the respondents would be liable to pay compensation to the petitioner and make the payment of interest also for the delay caused in the payment of aforesaid retiral dues.

iii) For issuance of any other appropriate writ or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

8. It appears that upon the death of Rajesh Kumar, when the petitioner represented for payment of death-cum-retiral benefits, the respondent no. 6 also raised an objection and claimed half



payment on the basis of being the second wife. Under such circumstances, the authorities have called upon both the parties to obtain succession certificate.

9. Learned counsel for the petitioner submitted that in all the records maintained by the authorities, she is shown as the wife and thus, rightly the authorities had issued D.C.R. Gratuity Payment Order in her favour and family pension was also sanctioned. It was submitted that the authorities cannot decide the validity of the second marriage or claim of the respondent no. 6 and thus, are obliged to make payment of all the dues to the petitioner.

10. Learned counsel for the State submitted that though initially all orders were issued in favour of the petitioner but when controversy was raised by the respondent no. 6, to prevent any wrong payment, a succession certificate has been asked for.

11. Learned counsel for the respondent no. 6 submitted that she is also the second wife of late Rajesh Kumar, in support of which there are numerous documents including Aadhar Card, Bank Pass Book etc.

12. Upon being called, learned counsel for the State took that stand that the authorities are bound to act in terms of the circular of the Finance Department of the State Government bearing No. P.C.-1-Misc.-41/92/10059/Vi., dated 06.09.1996, in which it has



been held that only the first wife is entitled to family pension and upon death, the minor children of the second wife are also entitled to the same. Thus, he is not in a position to controvert the fact that the petitioner is the sole claimant for family pension. However, with regard to other dues, the stand is reiterated that the claimants have to produce succession certificate.

13. Having considered the rival contentions, in view of the undisputed position that in the records of the State, it is the petitioner who has been shown as the sole wife and the above referred circular of the State Government, as also admitted by respondent no. 6, the petitioner is entitled to full family pension. Payment of the same be made to her within three weeks from the date of production of a copy of this order before the respondents no. 3 and 4. As far as payment of other dues are concerned, the same shall be in terms of the succession certificate issued in favour of the claimant(s).

14. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

