

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6144 of 2016

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Moni Kumari D/o late Awadesh Kumar Sinha Resident of Village- Nimchak
Bithani District Gaya.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary Personnels and Administration Reforms Department,
Bihar, Patna.
3. The Collector -cum-Chairman Compassionate Committee Saran, Chapra
4. The Additional Collector Establishment , Saran at Chapra.
5. The Executive Engineer, Department of Irrigation Saran Nahar Pramandal, Elma
at Chapra District .
6. The Collector cum Chairman, District Compassionate Committee, Saran, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Adv.
Mr. Rajesh Kumar, Adv.

For the Respondent/s : Mr. Shiv Kumar, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 29-11-2017

Leave is granted to learned counsel for the petitioner to add
District Compassionate Committee through its Chairman as
respondent no.6. Leave is also granted to learned counsel to correct
the status of respondent no.3 during the course of the day.

Heard Mr. Devendra Kumar Sinha, learned Senior Counsel
for the petitioner alongwith Mr. Rajesh Kumar, Advocate on record
and Mr. Shiv Kumar, learned AC to GA-7, for the State.

With the consent of the parties the writ petition has been
heard with a view to final disposal at the stage of admission itself.

The petitioner is aggrieved by the decision of the District
Compassionate Committee, Chapra, chaired by the District
Magistrate, Chapra as the Chairman, dated 25.2.2016, whereby the



claim of the petitioner discussed at Serial No.3 of the proceeding, has been rejected in reference to Rule 23 of the Bihar Government Servants Conduct Rules, 1976 and the Hindu Marriage Act, 1955 on grounds that the petitioner is a daughter born from the second marriage of the deceased Government employee.

I need not go into long discussion to hold that the opinion of the District Compassionate Committee is contemptuous for it is in direct conflict of the judgment of this Court rendered in the case of **Sandeep Kumar vs. State of Bihar**, since reported in 2001(4) PLJR 821, whereby a Co-ordinate Bench of this Court in reference to the judgment of the Supreme Court since reported in (2000) 2 SCC 431 (**Rameshwari Devi vs. State of Bihar**) has held that in view of the stipulations present in the Hindu Marriage Act, even though the second marriage of a deceased employee may be void but the children born from the wedlock are legitimate and are entitled for all benefits to which children born from the first wife are entitled to. The opinion of the District Compassionate Committee is thus in conflict with the legal position so settled by this Court and also by the Supreme Court on the issue.

Mr. Sinha, learned Senior Counsel, has also relied upon some other judgments of this Court as well as a judgment of Madras High Court in case arising from W.P.No. 36981/2015 (**Union of India vs. Smt. M. Karumbayee**) to submit that identical view expressed by



Madras High Court has been confirmed by the Supreme Court when Special Leave Petition of the Union of India has been dismissed without interference on 18.9.2017.

Having heard learned counsel for the parties and in view of the position clearly settled by this Court in the case of **Sandeep Kumar** (supra), as referred to above, although this Court was tempted to impose heavy cost on the District Compassionate Committee, Chapra chaired by the District Magistrate, Chapra but for persuasion of learned State Counsel, it refrains from doing so.

In result, the decision of the District Compassionate Committee, Chapra dated 25.2.2016 in so far as it has rejected the candidature of the petitioner merely because she is a child born from the second marriage of the deceased Government employee, is quashed and set aside and the matter is remitted back to the Committee for taking the candidature of the petitioner to its logical conclusion within three months from the date of receipt/ production of a copy of this order.

The writ petition is allowed with the observations and directions aforementioned.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.12.2017
Transmission Date	NA

