

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.2037 of 2015  
Arising out of  
Civil Writ Jurisdiction Case No. 14376 of 2015  
Along with  
Interlocutory Application No. 5981 of 2017.**

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1. Indu Devi, Wife of Late Pratap Narain Yadav, resident of village - Bhupatti, P.S. Babubarhi, District - Madhubani  
(Appellant died, substituted by following heirs and legal representatives vide order dated 12.09.2017 passed in I.A. No. 5981/2017)
- 1(a) Brahma Nand Yadav,  
1(b) Madan Kumar Yadav,  
Both are sons of late Pratap Narain Yadav (Husband of the appellant)  
R/o Village – Bhupatti, P.S. Babubarhi, District Madhubani.
- 1(c) Sarita Kumari, wife of Shiv Narayan Singh, R/o Village – Kusumar, P.S. Khutauna, District Madhubani
- 1(d) Rita Devi, wife of late Pravin Kumar Yadav, daughter-in-law of deceased appellant, R/o Village – Bhupatti, P.S. Babubarhi, District - Madhubani
- 1(e) Mamta Devi, wife of Raj Kumar Singh (daughter of appellant), R/o Village – Mohanpur, P.S. Pandaul, District – Madhubani.

.... .... Petitioner – Appellant (s)

Versus

1. General Manager, Central Bank of India, Central Bank of India Building, 2nd Floor, M.G. Road, Fort, Mumbai 400023
2. The Zonal Manager, Central Bank of India, Central Bank of India, Zonal office, Muzaffarpur
3. Disciplinary Authority Cum the Regional office, Central Bank of India, Alalpatti, Darbhanga
4. Appellate Authority cum Assistant General Manager, Zonal Office Muzaffarpur
5. The Branch Manager, Central Bank of India, Khutauna Branch, District - Madhubani

.... .... Respondents – Respondents.

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**Appearance:**

For the Appellant/s : Mr. Gopal Jha and  
Mr. Shreepal Jha, Advocates.

For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI  
and  
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 12-09-2017



**Re. Interlocutory Application No. 5981 of 2017**

I.A. No. 5981/2017 has been filed for substitution of the sole appellant, who died on 12.09.2016, leaving behind her heirs and legal representatives as mentioned in Paragraph 4 of the substitution petition.

Substitution petition is allowed.

Let the heirs and legal representatives mentioned in Paragraph 4 of the substitution petition be substituted in place of the sole deceased appellant.

**Re. Letters Patent Appeal No. 2037 of 2015**

Heard learned counsel for the appellant and learned counsel representing the respondent Bank.

2. The Writ Application was preferred by the appellant challenging the order of dismissal dated 12.10.2007 passed against her husband, who was in the service of the respondent Bank. During his lifetime, her husband had challenged the order of his dismissal before the Appellate Authority but failed as the Appellate Authority also vide order dated 29.12.2008 refused to interfere with the order of punishment.

3. It appears from the perusal of the record as well as the order passed by the learned Single Judge that the husband of the petitioner did not challenge the orders passed by the Disciplinary



Authority and the Appellate Authority before any competent court. The petitioner – appellant, for the first time, filed a Writ Application, being CWJC No. 24861/2013, in which she confined her prayer for the retiral benefits and no challenge was made to the order of dismissal and the appellate order.

4. A learned Single Judge of this Court while disposing of the said Writ Application (CWJC No. 24861/2013) vide order dated 14.11.2014, in the last line of the order, gave an observation that the petitioner will be at liberty to challenge the order of dismissal. The present Writ Application (CWJC No. 14376/2015) came to be filed on the strength of the said liberty said to have been granted to the petitioner vide order dated 14.11.2014.

5. The learned Single Judge while disposing of the Writ Application (CWJC No. 14376/2015) considered that plea of the petitioner but did not favour the petitioner with the same as according to the learned Single Judge, mere observation by giving liberty to the petitioner to challenge the order of dismissal would not mean that a Writ Application would also be maintainable.

6. We are in agreement with the view of the learned Single Judge taking into consideration an overall view of the present case because we find that after death of her husband, the writ petitioner - appellant cannot be allowed to raise an issue which her husband did



not raise during his lifetime.

7. Appeal has no merit. It is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Rajeev Ranjan Prasad, J)**

Dilip, AR

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| AFR/NAFR          | NAFR       |
| CAV DATE          | N/A        |
| Uploading Date    | 13.09.2017 |
| Transmission Date | N/A        |

