

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18324 of 2017

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Urmila Devi Alias Urmila Kunwar, wife of Late Ram Adhar Singh, resident of Village- Bhalkari, P.O.- Barki Kharari, Anchal- Kargahar, P.S.- Kargahar, District- Rohtas. At present Bhabua Ward No. 23, P.S.- Bhabua, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar, Patna.
2. The Director of Accounts, South Bihar Power Distribution Corporation Limited, Vidyut Bhawan, Patna.
3. The General Manager-cum-Chief Engineer, Magadh Electric Supply Area, Gaya.
4. The Deputy General Manager-cum- Electric Superintending Engineer Magadh Region, Gaya under South Bihar Power Distribution Corporation Limited.
5. The Electrical Executive Engineer, South Bihar Power Distribution Corporation Limited, Supply Division, Rohtas at Sasaram.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Mr. Ajay Nandan Sahay and Mr. Navin Kuamr Jha, Advocates
For the S.B.P.D.C.L.	:	Mr. Ranjit Sinha, Advocate
For the State	:	Mr. Abbas Haider, S.C. 6

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-04-2018

Heard learned counsel for the petitioner; State of Bihar

and South Bihar Power Distribution Company Limited (hereinafter referred to as the 'Corporation').

2. The petitioner has moved the Court for the following relief:

“That this is an application for issuance a writ/writs, order/orders, direction/directions commanding the respondent authorities to release the family pension of the deceased husband in favour of this petitioner as her husband died on 01.09.2014 being the petitioner since 2002.”



3. The undisputed facts are that the petitioner was the second wife of late Ram Adhar Singh, who was working under the Corporation and superannuated on 28.02.2002. Earlier, in the pension form, he has indicated only with regard to his first wife namely, Chand Muni Devi. However, subsequently, with regard to Group Saving, in the nomination form, he has indicated his desire of payment being made half and half to both the wives i.e., Chand Muni Devi and the petitioner. The petitioner claims that upon the death of the first wife on 22.07.2013, her husband had represented before the authorities by giving an affidavit dated 27.03.2014 indicating that the petitioner may now be given family pension. Soon thereafter, the husband of the petitioner died on 01.09.2014, and the authorities have not yet paid family pension to the petitioner leading to filing of the present writ application.

4. Learned counsel for the petitioner submitted that she was married to Ram Adhar Singh almost 38 years prior to his death and, thus, the same was also disclosed before the authorities in the Group Insurance Nomination Form and also later in the request made for substituting her in place of the first wife for payment of family pension.

5. Learned counsel for the Corporation, who has filed counter affidavit submitted that she has not approached the authorities



in the matter and further with regard to the claim of family pension, the matter cannot be seen in the background of nomination being made for 50% on the Group Saving Fund for the reason that the family pension is legally payable only to the first wife and the dependant children from the second wife though in case of other dues, there can be nomination made in favour of others also. Moreover, learned counsel submitted, that it is not clear as to whether the petitioner had married the employee prior to him joining service as the same would decide her entitlement inasmuch as, if she was married prior to the employee joining service, she may have a claim for family pension but if she had married after the employee was already in service and without taking permission for such marriage, she would clearly be disentitled to family pension.

6. Be that as it may, the Court would only clarify the position under law for such payment. If the petitioner is found to have married the employee prior to him joining service, the condition of taking prior permission of the employer before such marriage, clearly would not be attracted in such case and, thus, family pension would also be payable to the second wife. However, if the facts reveal that the marriage is after the employee being in service, and without due permission, the second wife shall not be entitled to any family pension. Thus, the authorities are required to verify such fact



and if there is no definite conclusion, the petitioner would, but necessarily, have to move before the Civil Court of competent jurisdiction for any declaration in her favour with regard to the date of her marriage to the deceased employee.

7. Accordingly, the writ petition stands disposed off with a direction to the authorities concerned to ascertain as to whether the petitioner had married the deceased employee prior to him joining service based on the records and then act accordingly. However, if they are not in a position to come to a definite conclusion or if the records show otherwise, they shall not be obliged to make such payment and it would be incumbent upon the petitioner to get an order of a competent Court in her favour showing her to be entitled to such payment.

(Ahsanuddin Amanullah, J.)

P. Kumar

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