

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19237 of 2017

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Ankush Kumar, S/o Late Chhedi Mahto, Resident of Village- Jhapahan, P.S.-
Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The North Bihar Power Distribution Company Ltd. through the Managing Director, Bailey Road, Patna.
2. The Deputy General Manager cum Electrical Superintendent Engineer, Electric Supply Circle, Muzaffarpur.
3. The Electrical Executive Engineer, Electric Supply Division, Muzaffarpur (Rural).
4. The Eexecutive Engineer (Electric) Urabn Electric Supply Area Muzaffarpur.
5. The General Manager cum Engineer-in-Chief, Tirhut Electric Supply Area Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey
For the Respondent/s : Mr. Vinay Kirti Singh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-05-2018 The writ petitioner by way of the present writ petition has prayed for quashing of the order as contained in Memo No. 92 dated 06.03.2017 issued by the Respondent No. 1 whereby and whereunder the claim of the petitioner for appointment on compassionate ground has been rejected on the ground that the petitioner's father had entered into second marriage without permission of the department.

The brief facts of the case are that the father of the petitioner, namely, Cheedi Mahto died in harness on 22.01.2008 while he was working on the post of Daksh Khalasi. After death of the father of the petitioner, the entire death cum retiral



benefits were given to his widow, namely, Smt. Mithilesh Devi, the mother of the petitioner herein as well as the second wife of the father of the petitioner.

It is an admitted fact that the first wife of the petitioner had died on 06.06.2001 whereafter, the father of the petitioner had solemnized the second marriage. This fact has also been recorded by this Court in the earlier round of litigation i.e. in the order dated 30.08.2016 passed in C.W.J.C. No. 10684 of 2013.

This Court finds from the records of this case that the mother of the petitioner herein i.e. the second wife of the deceased father of the petitioner had also been paid the entire death cum retiral dues as also has been granted family pension by the Respondents vide P.P.O. No. 2523/08-09 dated 05.02.2009.

On going through the impugned order dated 30.12.2016 passed by the Central Compassionate Committee, it is apparent that the case of the petitioner for appointment on compassionate ground has been rejected on the sole ground that the father of the petitioner had solemnized marriage during the lifetime of the first wife without obtaining permission from the department.



A counter affidavit has been filed on behalf of the Respondents, however, the same is absolutely perfunctory and does not address the issue involved in the present case.

I have heard the learned counsel for the parties and gone through the materials on record.

At the outset, I would like to state that despite the order dated 30.08.2016 passed by this Court in C.W.J.C. No. 10684 of 2013 whereby and whereunder this Court had set aside the order dated 17.08.2012 whereby the claim of the petitioner for appointment on compassionate ground had been rejected and the matter was remanded back to the Respondents to take a decision considering the fact that the Electrical Executive Engineer had reported to the Deputy Director, Tirhut Division, Muzaffarpur that the father of the petitioner had entered into the second marriage after the death of his first wife. However, the Compassionate Appointment Committee / the Respondents authorities while passing the order of rejection dated 30.12.2016 has miserably failed to take into account the aforesaid order dated 30.08.2016 passed by this Court, which amounts to disobeying the orders of this Court and calls for a serious action against the members of the said committee. Nonetheless, without delaying the matter any further, this Court finds that the



first wife of the father of the petitioner had died on 06.06.2001 whereafter the father of the petitioner had entered into the second marriage and this is the reason why the respondents authorities have granted death cum retiral dues to the second wife of the father of the petitioner herein finding her to be the genuine legal heir of the father of the petitioner herein. Thus, in nutshell, the position in law as also on facts is that the respondent authorities have admitted the relationship of the mother of the petitioner with that of the deceased father as a legal and valid relationship and on account of the said subjective satisfaction on the part of the respondents, the mother of the petitioner i.e. the second wife of the father of the petitioner herein was granted death cum retiral dues as also the family pension.

Therefore, this Court is of the view that since the respondents have recognized the validity and legality of the second marriage of the father of the petitioner, hence, at this stage, the issue of not providing appointment on compassionate ground to the petitioner herein on the ground that he is the son of the second wife of the deceased father of the petitioner and instead raising the issue of the deceased father of the petitioner marrying the mother of the petitioner without taking permission



of the department is not only mala-fide but is also contrary to the facts of the present case as also is in teeth of the order of this Court dated 30.08.2016 passed in C.W.J.C. No. 10684 of 2013, hence, the impugned decision of the Central Compassionate Committee dated 30.12.2016, as contained in Annexure-5 to the writ petition, is not sustainable in the eyes of law and is accordingly quashed and set aside.

In view of the aforesaid, the Respondent No. 1 is directed to take steps for granting appointment to the petitioner herein on compassionate ground since apart from the issue of the deceased father of the petitioner herein marrying the mother of the petitioner herein without taking permission of the department, no other disqualification has been pointed out by the Central Compassionate Committee or by the respondents in their counter affidavit filed in the present case. The said exercise be completed within a period of eight weeks from today.

The writ petition is allowed, however, without any order as to costs.

(Mohit Kumar Shah, J)

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