

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.271 of 2018
IN
Civil Writ Jurisdiction Case No. 2087 of 2016**

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Renu Devi, wife of late Kaushal Ram, resident of New Yarpur, Janta Road, Gautam Nagar, P.O.- G.P.O., P.S.- Gardanibagh, Distt.- Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Labour, Govt. of Bihar, Patna (Bihar).
2. The Labour Commissioner, Govt. of Bihar, Vikash Bhawan, Patna- 1.
3. The Canteen Manager, Old Secretariat Canteen, Patna.
4. Janki Devi, W/o late Kaushal Ram, R/o Jamunapur, Chain Tola, P.O. Modhomil, P.S Malsalami, Distt Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Purushottam Kumar Jha, Adv.
Mr. Rajiv Krishna Bariar, Adv.

For the Respondent/s : Mr. Sushil Kumar Singh, AC to AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 04-07-2018

Challenge in the present Letters Patent Appeal is to the order dated 06.10.2017 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.2087 of 2016.

From the averments made in the writ application and the contest being made by the private respondent for payment of post-retiral dues including pension, the learned Writ Court found that there is a serious dispute of fact as to who is the legally wedded wife or who is the first wife of late Kaushal Ram and such issues of facts



cannot be decided by the Writ Court sitting in its jurisdiction under Article 226 of the Constitution of India.

From the counter affidavit filed before this Court on behalf of the respondent nos.1 to 3 it is gathered that the petitioner claims herself as being first wife of late Kaushal Ram. She has relied upon the order dated 24.03.1988 passed in Misc. Case No.160 (M)/1986 as well as the order dated 19.02.1996 passed by 5th A.D.J., Patna in Criminal Revision No.296 of 1988. The private respondent claims that she is the first wife and there are five sons and daughter from the wedlock between her and late Kaushal Ram. It is claimed that the private respondent and her sons are nominees in the GPF account, by virtue of which, she would get the same. The Department has opined that pension and gratuity is payable to both the widow in equal proportion whereas group insurance would go to the private respondent as she has been nominated for that by the deceased. It is in these circumstances that the competent authority has passed the order bearing No.143 dated 13.01.2016. It is also stated that the GPF amount has been directed to be paid in equal share among the two ladies and their sons.

As regards the family pension, it is submitted that the same is not admissible to the second wife of a government servant if marriage is solemnized in the lifetime of the first wife, but minor



children of the second wife are entitled to get the same.

From the aforesaid facts and circumstances the views taken by the learned Writ Court are fully justified. If the appellant is not willing to accept decision of the respondents or vice-versa, the appellant as well as the private respondent are free to get a declaration as regards their status and claims from the Civil Court of competent jurisdiction.

The Letters Patent Appeal is disposed off with the aforesaid observations.

(Rajendra Menon, CJ)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	NAFR
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