

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17039 of 2017

Binoda Kuwar, wife of Late Suryabansh Paswan (Chowkidar, Bit-3, Thana-Nokha, District- Rohtas), Resident of Village- Raghunathpur, Police Station-Nokha, District- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through the Collector, Rohtas at Sasaram.
2. The Chairman, District Compassionate Appointment Committee headed by the Collector, Rohtas at Sasaram.
3. The Additional Collector, General Collectorate, Rohtas at Sasaram.
4. The Circle Officer, Nokha, District- Rohtas at Sasaram.
5. The Superintendent of Police, Rohtas at Dehri-on-Sone.
6. The Officer Incharge, Nokha Police Station, District- Rohtas.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Kamlesh Kumar Pathak, Advocate
For the Respondent/s	:	Mr. Partha Sarthi, GA-4
		Mr. Apurva Kumar, A.C. to G.A.-4

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 25-10-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, the petitioner is challenging the order dated 11.04.2016 passed by the District Compassionate Appointment Committee, by which the claim of the petitioner for appointment on compassionate ground has been rejected.

3. The petitioner is claiming to be the wife of late Suryabansh Paswan @ Suryabansh Ram, who was Choukidar in Bit No.3, P.S.- Nokha, District- Rohtas. The story moves in the manner that the petitioner is claiming that she was earlier



married to one Mangal Prasad Singh, who died in the year 1989 and again the petitioner entered into the marriage in the year 1991 with Suryabansh Pawan, from that wedlock, the couple has been blessed with two sons. In the school register, their father's name has been mentioned as Suryabansh Paswan. As per the petitioner her second husband was killed on 08.12.2011 and for that an F.I.R. was lodged, which was registered as Nokha P.S. Case No.214 of 2011 dated 08.12.2011. After the death of her husband, the petitioner filed an application for her compassionate appointment, as per the petitioner, she has been engaged on the post of Choukidar without any objection, for regular appointment, she has filed an application, which was considered and rejected on 09.04.2013 on the ground that the petitioner has failed to submit the proper application along with the required documents. That order was challenged by the petitioner in C.W.J.C. No.7764 of 2014 and this Court vide order dated 29.01.2015 disposed of the said writ petition with a direction to the petitioner to file a proper application, in turn, the respondents will consider the same and take decision in accordance with law. When her application was not taken into consideration, the petitioner filed a contempt petition being M.J.C. No. 3089 of 2015, but during the pendency of the contempt petition, the



impugned order has been passed, by which the claim of the petitioner for appointment on compassionate ground has been rejected without assigning any reason. Thereafter, the said contempt petition was disposed of by this Court with a liberty to the petitioner to challenge the said order by way of filing a fresh writ petition. Hence, this petition has been filed.

4. The State has filed its counter affidavit, in which it has been stated that she is impersonating in claiming to be the wife of Suryabansh Paswan, in fact she is wife of Mangal Prasad Singh and for that specific statement has been made in paragraph no.4 of the counter affidavit, in which five documents have been mentioned to show that she is wife of Mangal Prasad Singh not Suryabansh Paswan, as has been claimed by her.

5. Whereas, learned counsel for the petitioner submits that unimpeachable document is in the shape of name of the father of her sons where the name of the father and mother has been mentioned as Suryabansh Paswan and Binoda Kunwar. He further submits that the petitioner has filed an application for correction of name of her husband in the voter list and that has been corrected, and as such, she should be treated to be the wife of Suryabansh Paswan and Superintendent of Police has also given the certificate of being wife of Suryabansh Paswan.



6. So far the certificate issued by the Superintendent of Police is concerned, the same cannot be entertained as such type of certificates can only be issued by the proper authority.

7. As in the present case the issue is in conflict with regard to her husband as to whether she is the wife of Mangal Prasad Singh or Suryabansh Paswan. The State has taken specific stand in the counter affidavit that she cannot be appointed on compassionate ground as she is not wife of Suryabansh Paswan rather she is the wife of Mangal Prasad Singh.

8. These are the disputed questions of fact, cannot be gone into in the present proceeding. The petitioner, if so advised, may approach the Civil Court of competent jurisdiction for proper declaration with regard to her relationship with Suryabansh Paswan.

9. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	27.10.2018
Transmission Date	N/A.

