

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18430 of 2018**

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1. Savita Devi, wife of Sri Suresh Kumar,
2. Pallavi Kumari @ Pammi Kumari, minor daughter of Sri Suresh Kumar,
3. Himansu Ranjan @ Himansu Kumar, minor son of Sri Suresh Kumar, Both minors and under the guardianship of their mother and natural guardian Savita Devi, Address: All resident of 31/M, Mainatali, P.O.+ P.S.- Mugalsarai, District- Chandauli (U.P.), present Address C/o Late Gopal Lal, Mohalla Jakkibigha, P.O.- Dalmia Nagar, P.S. Dehri, District- Rohtas.

... .. Petitioner/s

Versus

1. The Union of India
2. The Ministry of Railways through Secretary, Government of India, New Delhi.
3. The Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
4. The General Manager, East Central Railways, Hajipur, Vaishali.
5. The Regional Manager, Human Resources, East Central Railways, Hajipur, Vaishali.
6. The Divisional Railways Manager, East Central Railways, Hajipur, Vaishali.
7. Suresh Kumar, son of Late Kashi Prasad Singh, resident of 31/M, Mainatali, P.O.+ P.S.- Mugalsarai, District- Chandauli (U.P.).

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s     | : | Mr. Anuj Kumar, Advocate                 |
| For the Respondent/s     | : | Mr. Nishi Nath Ojha, Advocate            |
| For the Respondent No. 7 | : | Mr. Nand Lal Kumar Singh, Advocate       |
| For the Respondent No. 1 | : | Mr. S.D. Sanjay, Addl. Solicitor General |
| For Accountant General   | : | Mr. Manish Kumar, Advocate               |

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**CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL**  
**ORAL ORDER**

3      07-12-2018                      Heard learned counsel for the petitioners, learned counsel appearing on behalf of the State, learned counsel appearing on behalf of the East Central Railways, Hajipur, Vaishali as well as learned counsel appearing on behalf of Private Respondent No. 7.

The petitioners in the present writ application seek payment of 50% amount of post retiral benefit, which is payable to petitioner No.1, being the wife of Respondent No. 7



who was due to retire on 30.10. 2018.

Learned counsel for the petitioners submit that in pursuance of the order passed by the Principal Judge, Family Court, Rohtas at Sasaram in Maintenance Case No. 50 of 2005, the petitioner is regularly getting Rs. 6000/- per month for her maintenance and for her children but after retirement of the Respondent No.7, she is facing great financial difficulty.

Learned counsel for the Railways have filed a Counter Affidavit stating therein that there is no provision under the Railways to deduct any portion of retiral dues, as claimed by the petitioners.

Learned counsel for the Private Respondent No. 7 has also filed counter affidavit stating therein that after his retirement, he has to maintain his elder brother's widowed wife and children , who are totally dependent on him.

Considering the nature of relief, as prayed for by the learned counsel for the petitioners, let the petitioners approach the Principal Judge, Family Court, Rohtas at Sasaram. The Maintenance Case No. 50 of 2005 would be revived at the instance of the petitioner, who will file an application before the Principal Judge, Family Court, Rohstas at Sasaram within a period two weeks and learned Principal Judge, Family Court,



Rohtas at Sasaram would pass an interim order of maintenance on an application, so filed by the petitioners in Maintenance Case No. 50 of 2005 within a period of three months from the date of filing of such application after issuance of notice to the respondent No. 7 within a fortnight of filing of such application filed by the petitioners, even if the Respondent No. 7 does not appear inspite of notice.

Taking into account financial difficulty faced by the petitioners, the said order would be communicated by the Principal Judge, Family Court, Rohtas at Sasaram to the present Senior D.P.O., East Central Railway Manager and any amount towards interim Maintenance will be accordingly paid to the petitioner from the retiral dues of the Respondent No. 7.

In the meanwhile, the Railways are directed to pay only 50 % of the retiral dues to the Respondent No. 7.

The writ application is accordingly, disposed of with the said observations and directions.

**(Nilu Agrawal, J)**

sudha/-

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