

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8183 of 2019

1. The Union of India through the General Manager, East Central Railway, Hajipur.
2. The Divisional Railway Manager, East Central Railway, Danapur(Bihar).
3. The Senior Divisional Personnel Officer, East Central Railway, Danapur, Bihar.
4. The Senior Divisional Finance Manager, East Central Railway, Danapur, Bihar.
5. The Senior Divisional Medical Officer(P), East Central Railways Hospital Danapur, Bihar.

... .. Petitioners/ Respondents in O.A.

Versus

Sumitra Devi, Wife of late Bhola Prasad, Resident of Village- Khedalpura (Sarai), P.O. Khagaul, P.S. Sahpur, District- Patna.

... .. Respondent(Applicant in O.A.)

Appearance :

For the Petitioner/s : Mr.Shekhar Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 18-04-2019

This application has been preferred against the order dated 04.10.2018 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. /050/00793/2016, whereby the order dated 28.06.2016 has been quashed and set aside and the respondents have been directed to consider the case of the applicants afresh within three months.



The facts in brief are that the applicant (respondent herein) is the wife of Late Bhola Prasad, a Railway employee, who died in harness on 25.06.2010 leaving behind the applicant and three children. Aggrieved by the denial of retiral benefits and family pension pursuant to the death of her husband, she filed O.A. No. 330 of 2014 for directing the railway authorities to make payment of the retiral dues of Late Bhola Prasad and to start family pension, to consider the applicant's case for compassionate appointment and for statutory interest on the unpaid retiral dues besides other reliefs. The said application was disposed of by order dated 20.04.2015 with a direction to the Railway authorities to treat the application as a representation and to dispose of the same in terms of the applicable Rule/ Guidelines and the factual position relating to the status of the applicant by a reasoned and speaking order within a period of three months.

In compliance of the order dated 24.09.2015 passed in O.A. No. 330 of 2014, the order dated 28.06.2016 was passed by the Senior Divisional Personal Officer, East Central Railway, Danapur holding that on an enquiry being made it transpired that the applicant Sumitra Devi is not legally married wife of Late Bhola Prasad and as such, her claim for payment of dues and compassionate appointment was not admissible as per rule, hence



denied. Aggrieved by the said order dated 28.06.2016, the applicant preferred O.A. No. 793 of 2016 in which the impugned order dated 28.06.2016, was quashed and the respondents, were directed to consider the case of the applicant afresh within three months. It is against this order dated 04.10.2018 that the instant writ application has been preferred.

The main contention of the petitioner in the instant application is that as per report of the Welfare Inspector, Late Bhola Prasad married the applicant Sumitra Devi while his first wife Veena Devi was still alive, although, their marriage had not been dissolved. As such, the marriage of Sumitra Devi with Late Bhola Prasad could not be said to be legally valid and Veena Devi was not the legally wedded wife of Late Bhola Prasad. In these circumstances, it was submitted that the claim for payment of retiral dues by the applicant Sumitra Devi was not admissible.

Having heard the learned counsel appearing for the petitioners and having gone through the records of the case, it transpires that an affidavit of Veena Devi sworn on 19.11.2010, was brought on record by the applicant as Annexure-7 to the O.A. application wherein she states that she was married to Late Bhola Prasad in the year, 1969. After six years of marriage, she got a job of Nurse in the Health Department and joined in the Sadar



Hospital at Jehanabad. Thereafter, she states that she married one Ram Raj Sinha , who was also, working in the Sadar hospdital, Jehanabad and that she has been living in Jehanabad for the last 30 years. It is further stated by her in the affidavit that she would have no claim over the service or pension of the wife of her first husband and that she would have no objection for pension or arrears and service benefits being given to the second wife of Late Bhola Prasad namely Sumitra Devi. It may further be stated here that the enquiry report referred to in the order dated 28.06.2016 has been brought on record as Annexure- 1 to the instant application.

Further, pursuant to the said enquiry report, it would transpire that although, Late Bhola Prtasad got married to one Veena Devi, it was quite some time back that differences arose between Late Bhola Prasad and Veena Devi. Thereafter, Late Bhola Prasad married Sumitra Devi, who had also abandoned her first husband. On the other hand, as would be evident from the affidavit of Veena Devi referred to above, she had also entered into the second marriage with Ram Raj Sinha and was living in Jehanabad for the last thirty years. Thus, it would transpire that since long, both Late Bhola Prasad and Veena Devi had no concern with each other, had entered into the second marriage and were



happily leading their separate family. From the enquiry report, it would further transpire that in the meeting with the Welfare Inspector Veena Devi was not interested in talking about settlement, nor did she co-operate in the enquiry by the said Welfare Inspector.

It would be relevant to note that there is nothing on record to show that there has been any complaint or dispute with reference to the grant of the service benefit etc. of Late Bhola Prasad from the side of Veena Devi. From the statements made in the affidavit of Veena Devi as also the report of the Welfare Inspector, the facts appear to be contrary to the extent that Veena Devi has neither any objection to payment of dues nor did she co-operate in the enquiry by the Welfare Inspector.

It would be relevant to point out that with respect of the Bank account of State Bank of India in the name of the deceased Late Bhola Prasad, after enquiry of the status of the applicant as widow of Late Bhola Prasad, she was allowed to withdraw the amount from the State Bank of India. Further Late Bhola Prasad at the time of employment had declared the applicant as his wife.

In view of the facts and circumstances, stated above, we do not find any illegality in the order impugned dated 04.10.2018



and the petitioners having also not made out any case for interference, this application stands dismissed.

(Amreshwar Pratap Sahi, CJ)

(Partha Sarthy, J)

sudha/-

AFR/NAFR	NAFR
CAV DATE	Na
Uploading Date	19.04.2019
Transmission Date	19.04.2019

