

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15549 of 2016

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Sonu Kumar S/o Late Kaushal Ram R/v- Jamunapur, Chain Tola, P.O.-
Madhomile, P.S.- Malsalami, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Labour, Government of Bihar, Patna.
2. The Labour Commissioner, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
3. The Canteen Manager, Old Secretariat Canteen, Labour Department, Government of Bihar, Patna.
4. Renu Devi, wife of late Kaushal Ram
5. Mohan Kr, son of late Kaushal Ram, residents of Mohalla – Yarpur, Jamtara Road, Gardanibagh, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Vijay Kr Sinha, Satyendra Kr Bhatnagar, Advocates
For the S t a t e	:	Mr Arun Kumar Sinha, AC to GP XXIV
For Respondent No 4	:	Mr Rajive Krishna Bariar, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 10-01-2019

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

2 The petitioner has approached this Court claiming appointment of compassionate ground on account of demise of his father, namely, Kaushal Ram in harness. The said Kaushal Ram has passed away on 09.07.2015. It is submitted by the learned counsel for the petitioner that petitioner's mother is the first wife of the deceased Kaushal Ram and, as such, she is claiming



appointment of her son Sonu Kumar, the petitioner. It is further pointed out by the petitioner's counsel that the deceased employee had, during the service period, made the petitioner's mother, namely, Janki Devi nominee in respect of 100% of Group Insurance on 23.10.1998 and also the nominee in respect of GPF under the Bihar GPF Rules on 23.10.2002. Various photographs have also been annexed showing the marriage of petitioner's mother Janki Devi along with that of deceased Kaushal Ram.

3 The Department has taken a stand in the counter affidavit that the claim for compassionate appointment has also been submitted by one Smt Renu Devi. The rival claims were referred to the Law Department. Opinion of the Law Department has also been relied upon by the respondents in the counter affidavit. Law Department has opined that in view of the fact that Renu had been receiving the maintenance amount as wife of Kaushal Ram in compliance of order dated 24.03.1988 passed in Miscellaneous Case No 160 (m) of 1986 by the Judicial Magistrate, 01st Class, Patna as well as order dated 19.02.1996 passed by the Additional Sessions Judge V, Patna in Criminal Revision No 296 of 1988, Renu Devi was the first wife of the deceased. Without any divorce, the deceased employee had entered into a second marriage with the mother of the instant petitioner,



therefore, there was no right of appointment on compassionate appointment in favour of the instant petitioner. Stand has been taken that the claim of the first wife Renu Devi for appointment of her son has been recommended. Only if Mohan Kumar, son of Renu Devi refuses to avail opportunity of appointment on compassionate grounds, that the claim of the petitioner can be considered.

4 This Court would also take note of the fact that in light of the order dated 31.08.2016 issued by the Labour Resource Department, the petitioner as well as his brothers including Smt Renu Devi (first wife) as well as her son Mohan Kumar have been availing the pensionary/post retirement dues which have been apportioned between them. Thus, there is sufficient sustenance to her legal heirs, namely, her sons Vijay Kumar, Raju Ram and the petitioner Sonu Kumar. Under order dated 31.08.2016 issued by Labour Commissioner, Bihar, Renu Devi is beneficiary of part of the retiral dues of Kaushal Ram as first wife. Under the same order of the Labour Commissioner, all sons of Janki Devi, i e, Vijay Kumar, Raju Ram, as well as petitioner Sonu Kumar have been availing part of retiral benefits of late Kaushal Ram as sons of second wife, without ever raising any objection.



5 On specific query made whether the petitioner has ever challenged the order dated 31.08.2016, wherein petitioner has been described as son of second wife, the response of the petitioner's counsel is in the negative. Having accepted his status as son of second wife for the purpose of availing part of retiral dues of late Kaushal Ram under order of Labour Commissioner dated 31.08.2016 (Annexure 1 to the counter affidavit of respondent No 4) without any objection, petitioner is estopped from contending to the contrary in the instant proceedings and claim to be son of first wife.

6 Under such circumstances, this Court does not find any reason for interference in the matter or to issue any direction for appointment of the petitioner on compassionate ground.

7 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2019
Transmission Date	NA

