

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6730 of 2018

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1. The Union of India through the General Manager, East Central Railway, Hajipur.
 2. The General Manager, East Central Railway, Hajipur.
 3. The Divisional Railway Manager, East Central Railway, Danapur.
 4. The Divisional Personnel Officer, East Central Railway, Danapur.

... .. Petitioner/s

Versus

1. Sumesh Kumar, Son of Late Satish Kumar Srivastava.
2. Smt. Sunita Srivastava, Widow of Late Satish Kumar Srivastava, Both are Resident of Mohalla- New Colony, Railway Quarter No. 318 AB, P.O. and P.S.- Khagaul, District- Patna.
3. Smt. Usha Devi @ Usha Kunwar, so-called wife of Late Satish Kumar Srivastava, resident of Sohanipatti, Buxar Town, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Adv.
For the Respondent/s	:	Mr. Amresh Kumar Sinha, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-08-2020

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

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



Petitioners have prayed for following relief:-

“For quashing of the order dated 09.10.2017 passed in O.A. No. 050/00007/2016 passed by the learned Central Administrative Tribunal, Patna Bench, Patna whereby and whereunder the said original application has been allowed and the petitioners/respondents have been directed to release family pension and settlement dues to the respondents/applicants after taking indemnity within three months of receipt of a copy of the aforesaid order.”

Respondent Nos. 1 and 2 who are widow and son of deceased employee had filed O.A. before the Central Administrative Tribunal for direction to Railway authorities to grant family pension and other retiral dues to the widow of deceased Satish Kumar Srivasava who died in harness on 18.04.2014 leaving behind the widow, two unmarried sons and one married daughter.

Late Satish Kumar Srivastava was working as Porter at Patna Junction who died in harness on 18.04.2014 and after his death Welfare Inspector was deputed to complete the formalities for settlement of retiral dues of deceased employee to his legal heirs and during enquiry it transpired that deceased



employee had two wives. First wife is Smt. Usha Devi daughter of Ram Udar Lal respondent No. 3 and there is no issue from the first wife. The respondent No. 2 is the second wife, the report of the Welfare Inspector is based upon evidences and statement of villagers.

Petitioners have stated that in the railway records respondent No. 2 has been shown as wife of deceased employee, although, no entry in the name of wife has been found in the service book.

In the enquiry conducted by Welfare Inspector, no evidence was brought by the respondent No. 3 who claims to be first wife of the deceased except a bald statement that she is the first wife. Prior to death of deceased employee she never approached the authorities claiming to be the first wife of the deceased employee and only after his death, she has claimed to be his first wife and approached the authorities for payment of retiral dues.

The tribunal on the basis of documents produced before it i.e. the railway pass in which respondent no. 2 has been shown as wife and a daughter and two sons have been shown as family members, affidavit dated 28.09.2006 stating that the respondent no. 2 was known as Sunita Kumari Verma before



marriage and after marriage she was known as Sunita Srivastava, respondent No. 2 name was listed at serial no. 7 for getting financial assistance under Railway Administered Welfare and Relief Fund.

Respondent No. 2 was residing in the railway quarter with deceased employee with family and she submitted representation dated 14.05.2014 to permit her to continue in said quarter with family which was permitted. Voter ID card showing respondent no. 2 as wife of deceased employee. However, there is nothing on record to even prima facie satisfy that respondent no. 3 is the first wife and was married to deceased employee. She neither co-operated with enquiring member deputed by railways to settle retiral dues of deceased employee nor appeared before Tribunal even after valid service of notice.

After hearing the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by the Central Administrative Patna Bench requiring any interference by this Court in its writ jurisdiction and accordingly, the writ petition is dismissed.

However, dismissal of this writ petition will not preclude respondent no. 3 in approaching civil court of



competent jurisdiction for a declaration that she is legally wedded wife of deceased employee.

(Sanjay Karol, CJ)

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

