IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10732 of 2019

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Kavita Devi W/o Late Rajendra Prasad Singh resident of Village-Hanuman Chak (Simra), P.s.-Janipur, District-Patna

... ... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Work Department, Visheshwariya Bhawan, New Secretariat, Patna.
3. Engineer In Chief-4, Rural Works Department, Visheshwariya Bhawan, New Secretariat, Patna
4. Director, Government Provident Fund, Pant Bhawan, Patna.
5. Accountant General, Bihar, Veer Chand Patel Path, Patna.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr.Pratap Sharma, Advocate
For the Respondents	:	Mr.Kumar Alok (SC7)
For Accountant General	:	Mr. Ram Yash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date : 16-06-2020

Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of the State as well as learned counsel appearing on behalf of the Accountant General.

The petitioner has prayed for a direction to the respondents to pay death cum retiral benefit including family pension; death cum retiral gratuity, GPF and other emoluments along with interest.

In the instant case a counter affidavit has been filed on behalf of the respondent no.3. Paragraph 4 of the counter affidavit it contains material fact for the purpose of decision which is quoted hereinbelow for ready reference:-

> *"4. That controverting to the different paragraphs of the writ petition under reply the answering respondent prays to brief some important fact to the knowledge of the Hon'ble Court for proper adjudication of the issue.*
>
> *(i) That at the outset it is very humbly submitted that the amounts of leave encashment equal to 300 days and the amount of Group Insurance has already been sanctioned vide letter no. 09 dated 20.02.2018 and letter no. 10 dated 20.02.2018 respectively in favour of the petitioner.*
>
> *(ii) That so far as the grievance of the petitioner with respect to non-payment of remaining death cum-post retiral benefit of the deceased husband of the petitioner is concerned, it is very humbly submitted on behalf of the present respondent that the pension paper and BTC form 56 for final withdrawal of G.P.F. amount has already been filled up and is ready, but the same has been kept on hold by the present respondent department for want of Succession Certificate required to be submitted by petitioner for which the Chief-Engineer-4 (Hq.), Rural Work Department vide his letter No. 4333 dated 25.09.2018 has made request to the petitioner to make available the succession Certificate to the officer of the present respondent, so that the further action may be taken.*
>
> *(iii) That it would be pertinent to mention here that the deceased husband of the petitioner had got two marriages during his life time and he has left behind him 6 sons and daughters from both the wives, so the present respondent vide aforesaid letter has asked the petitioner to submit the succession certificate in order to avoid future litigation.*
>
> *(iv) That it is very humbly submitted that the petitioner has not submitted any legal and valid document in support of her being legal heir of the deceased employee.*
>
> *(v) That it is further submitted that as soon as the petitioner will submit the succession certificate, the remaining death-cum-retirement*

benefit will be sanctioned at the earliest.

(vi) That in the facts and circumstances stated hereinabove it is very humbly submitted that the petitioner has already been paid the part post-retiral benefit, the remaining post-retiral benefit will be paid after the submission of the succession certificate for which the petitioner has already been intimated.

Learned counsel for the State submits with reference to paragraph 4 of the counter affidavit that in the instant case the claim of the petitioner cannot be decided for payment of remaining post retiral dues unless the petitioner produces succession certificate and only on submission of succession certificate, further action can be taken.

Considering the fact that there are two wives of the deceased and they claim and counter claim, the Court is not in a position to issue a positive direction in favour of the petitioner in absence of succession certificate or the certificate for payment of post retiral dues on the strength of service .

With the aforesaid observation, the present writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.06.2020
Transmission Date	N.A.