

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11461 of 2018

1. Mostt. Renu Devi and Anr W/o Late Raja Ram Paswan.
2. Mona Kumari, D/o Late Rajaram Paswan, Both are resident of Ekdara, P.S.- Bibhutipur, District- Samastipur, presently residing at Village- Bhadas, P.S.- Mahua, District- Vaishali.

... .. Petitioners.

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
2. The Director General cum Commandant General, Bihar Home Guard and Fire Brigade Services, Bihar, Patna.
3. The Commandant Head Quarter, Bihar Home Guard, Patna.
4. The Divisional Commandant, Bihar Home Guard, Magadh Division, Gaya.
5. The District Commandant, Bihar Home Guard, Aurangabad.
6. Mostt. Bachchi Devi, W/o Late Raja Ram Paswan, resident of Ekdara, P.S.- Bibhutipur, District- Samastipur.

... .. Respondents.

Appearance :

For the Petitioners	:	Mr. Ashok Kumar Yadav, Advocate. Mr. Krishna Deo Singh, Advocate.
For the Respondent/s	:	Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 01-06-2020

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

Both the petitioners, who happen to be the second wife and daughter of the deceased employee, have approached this Court for payment of half of the death-cum-retiral dues.

It is submitted on behalf of the petitioners that the deceased employee Rajaram Prasad was Inspector in Bihar



Home Guard and had performed two marriage with the permission of the authority concerned and both wives are alive. From the first wife, he has three sons and three daughters and all are major and married. From his second wife, he has two daughters, namely, Seema Kumari, who is married, and Mona Kumari (petitioner no.2) is still unmarried. It is further submitted that during the lifetime of the deceased employee both the wives were residing with him. All of a sudden on 27.04.2016, he died in harness, while he was admitted in PMCH, and after his death petitioners were ousted from the house by the first wife and her sons. As at the time of death, deceased Rajaram Prasad was posted as Company Commander, Bihar Home Guard, Aurangabad and as such petitioner no.1 filed an application before the District Commandant (respondent no.5) regarding her claim and, pursuant to her request, she was called to appear in Pension Darbar at Headquarter, Patna and petitioners appeared and submitted their complain. Respondent no.5 vide his letter dated 04.11.2016 directed the petitioner no.2 to submit genealogy certificate in his office within a week and the said direction was complied with. Again, vide letter dated 12.11.2016, respondent no.4 directed petitioner no.2 to submit all required documents before the respondent no.5, which had already been submitted before the respondent no.5. It is also



submitted that respondent no.5, vide his letter dated 06.06.2017, directed both the wives to submit consolidated family list as well as succession certificate issued by the learned District Judge. Petitioners obtained the consolidated family list and submitted it before the authority but till date no action has been taken. However, they got information from reliable sources that death-cum-retiral dues has been paid to the first wife of the deceased employee. Hence, this writ application.

A counter affidavit has been filed on behalf of respondent nos.1 to 5 in which it is stated that there is no evidence in the official record of Bihar Home Guards substantiating that the deceased employee had took the permission from the competent authority for entering into the second marriage with petitioner no.1 during the life time of 1st wife. Hence, the second marriage is void in the eyes of law. It is further submitted that in the service book of the deceased employee under heading successor (Uttaradhikari), the name of respondent no.6 as the wife and three sons have been given. Hence, after the demise of the employee, Rajaram Paswan, all his retiral benefits has been paid to 1st wife, Bachchi Devi. The marks sheet of matric and intermediate identity card of petitioner no.2, bears the name of Bachchi Devi as her mother and not of petitioner no.1.



Learned Counsel for the State, relying on the judgments rendered in the case of **Rameshwri Devi Vs. State of Bihar and others** reported in **(2000) 2 SCC 431 : 2000 (2) PLJR (SC) 15** as also in the case of **Lalita Devi Vs. The State of Bihar and others** reported in **2017 (2) PLJR 610**, has submitted that the petitioners have no claim over the pensionary rights of the deceased employee. Even if the deceased employee had married the petitioner no.1 during the lifetime of his first wife, the same would be nothing but a bigamous marriage, which would not confer any right upon the petitioners to receive half of the death-cum-retiral dues.

In view of the ratio laid down by the Hon'ble Supreme Court and the discussions made hereinabove, I am of the considered opinion that no relief can be granted to the petitioners. Accordingly, this writ application, being devoid of any merit, is dismissed.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	02.06.2020
Transmission Date	NA

