

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14935 of 2019

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Ajeet Kumar Singh alias Ajit, S/o Late Ram Asani Singh alias Ramasani,
resident of Village- Madhopur Kote (Chhitauni), P.S.- Rohaniya, Distt.-
Varanasi (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Patna University through the Vice Chancellor, Patna
4. The Vice Chancellor, Patna University, Patna
5. The Registrar, Patna University, Patna
6. Allahabad Bank through the Zonal Manager, Zonal Office, Patna
7. The Branch Manager, Allahabad Bank, Patna University Branch, Patna

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr.Rajesh Kumar Sinha, Advocate
For the State	:	Smt. Binita Singh (S.C.-28)
For the University	:	Mr. R.K.Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 15-06-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and learned counsel appearing for the respondent-University as well as the



learned counsel for the State.

The grievance of the petitioner is with respect to payment of due amount of pension of Late Dr. Shitala Prasad Singh, who retired from the service of the Patna University as Reader in Zoology Department and died on 14.02.2013.

Learned counsel for the petitioner submits that in support of his claim, the petitioner is relying upon a Will executed by the deceased employee.

From the records it appears that the petitioner had earlier approached this Court, vide CWJC No.2015 of 2016, seeking retiral dues claiming himself to be the adopted son of Late Ram Asani Singh. This Court had allowed the petitioner to withdraw the aforesaid writ petition to “produce evidence/documents, which in law are admissible, for the authorities to make payment in his favour.”.

Having obtained such liberty, the petitioner again approached the Registrar, Patna University, Patna claiming calculation of arrears pension payable to Late Shitala Prasad Singh and payment thereof to the petitioner claiming to be his legal heir. This time the claim is based on a letter of probate issued by the court of 12th Additional District Judge, Varanasi in Probate Case No.07/ 2018, which is dated 14.09.2018.



Learned counsel for the respondents submitted that the order of probate in Probate Case No.07/2018 cannot constitute a valid basis for claiming admissible/due amounts of pension or arrears thereof in respect of the deceased Shitala Prasad Singh.

Bare perusal of the order passed in Probate Case No.07/2018 would show that the probate is in respect of one savings Bank account and the amounts deposited therein.

The petitioner is claiming due amount of pension of Late Shitala Prasad Singh, retired Reader in Zoology Department of the University, who died on 14.02.2013. He claims to be living with Late Shitala Prasad Singh since his childhood. He further claims that the Will was executed in his favour by Dr. Shitala Prasad Singh during his lifetime on 14.10.1999 bequeathing his movable and immovable property.

It is the petitioner's case that due to old age, Late Shitala Prasad Singh was unable to move about and that for five to six years prior to his death, the petitioner was looking after him. Some vague assertion has been made in paragraph 11 of the writ petition that since before the year 2009, Late Shitala Prasad Singh was unable to come to Patna and that for several years, he was not paid pension. From paragraph 13 of the writ



petition, it is clear that the petitioner has no knowledge even as to since how many years, the pension has not been paid to Dr. Shitala Prasad Singh. The petitioner has not even disclosed the date on which the wife of Late Shitala Prasad Singh died. There is only an assertion that she died during his lifetime. However, the petitioner claims to be the legal beneficiary of the pensionary dues of Late Shitala Prasad Singh. Such claim is based on nothing other than the probate order passed in Probate Case No.07/2018, which declares the intention of the testator (Dr. Shitala Prasad Singh) in respect of certain amounts held in Allahabad Bank Branch, Patna University, Patna.

The right of a legal heir to claim pensionary benefits of the deceased is for specified class of legal heirs under the Service Rules. To sustain a claim in respect thereof, the legal heir would be required to fall in one or the other category prescribed in the Service Rules. The petitioner has not specified anywhere in the writ petition that he belongs to a class of legal heir which, as per the Rules applicable to the respondent-University, is entitled to pensionary dues of the deceased. In the circumstances, the petitioner has not made out any case for being granted the pensionary dues by resort to a writ proceedings.



It is evident from the pleadings in the writ petition that the petitioner is not claiming the benefits on account of being natural/adopted legal heir of Late Dr. Shitala Prasad Singh. He does not fall in any class of legal heirs or relative of Late Shitala Prasad Singh, the deceased employee, whose retiral benefits he is claiming. No case is made out for issuance of writ in favour of the petitioner, as prayed for in the writ proceedings.

The petitioner, however, will be at liberty to satisfy the authorities, if he has any valid document or evidence in support of his claim.

The writ petition is dismissed with liberty as aforesaid.

(Madhuresh Prasad, J)

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