

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 23869 of 2019

1. Akash Kumar (Minor) aged about 17 years, Male, Son of Late Manoj Kumar Dwivedi, Under Guardianship of Sri Umakant Tiwary, aged about 69 years Male their Grand Father, Resident of Village- P.O. and P.S. Kab, Ranitalab, District- Patna.
2. Anjali Kumar (Minor) aged about 15 years, Female Daughter of Late Manoj Kumar Dwivedi, Under Guardianship of Sri Umakant Tiwary, aged about 69 years Male, their Grand Father, Resident of Village- P.O. and P.S. Kab, Ranitalab, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principle Secretary Department of Human Resources Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Accountant General Bihar, Patna.
6. The Director Provident Fund, Bihar, Patna.
7. The District Magistrate Bhojpur, Arrah.
8. The District Provident Fund Officer, Bhojpur.
9. The District Education Officer, Bhojpur.
10. The Block Education Extension Officer Agion, Bhojpur.
11. The Headmaster Government Middle School Baghi, Agion Bhojpur.
12. Mosmat Kanchan Devi, Second Wife of Late Manoj Kumar Dwivedi, Resident of Village- Narayanpur, PO Basdhi, PS Tharthari, District- Nalanda, Bihar.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24504 of 2019

Kanchan Devi, aged about 32 years (Female) Wife of Late Manoj Kumar Dwivedi @ Manoj Kumar Dubey @ Pankaj Dubey, Resident of Village- Narayanpur, P.O. Bansdih, PS-Tharthari, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Human Resources Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Director, Provident Fund, Government of Bihar, Patna.



5. The District Programme Officer, Arrah.
6. The District Provident Fund Officer, Bhojpur.
7. The District Education Officer, Bhojpur.
8. The Block Education Extension Officer, Agion, Bhojpur.
9. The Head Master, Government Middle School, Baghi, Agion, Bhojpur.
10. The Accountant General, Government of Bihar, Patna.
11. Akash Kumar, aged about 17 years minor son of Late Manoj Kumar Dwivedi @ Manoj Kumar Dubey @ Pankaj Dubey under the guardianship of their maternal grandfather (Nana) namely Sri Uma Kant Tiwary, aged about 70 years (Male) resident of Village-Kab, Post-Kab, PS-Rani Talab, Bikram, District-Patna.
12. Anjali Kumari, aged about 15 years minor daughter of Late Manoj Kumar Dwivedi @ Manoj Kumar Dubey @ Pankaj Dubey under the guardianship of their maternal grandfather (Nana) namely Sri Uma Kant Tiwary, aged about 70 years (Male) resident of Village-Kab, Post-Kab, PS-Rani Talab, Bikram, District-Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 23869 of 2019)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 24504 of 2019)

For the Petitioner/s : Mr. Ravindra Kumar Sinha No. 2, Advocate

For the State : Mr. Amit Bhushan, AC to GP 17

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 03-02-2020

Heard learned counsel for the parties.

2. Both the cases have been taken up together for the purpose of disposal as the parties are common and the issue is also common.

3. The petitioners of CWJC No. 23869 of 2019 are the minor children of late Manoj Kumar Dwivedi, who died in harness working as Assistant Teacher in Government Middle School, Baghi Agion in the district of Bhojpur on 17.02.2018. The



petitioner of CWJC No. 24504 of 2019 is the second wife of the deceased employee. The mother of the petitioners of CWJC No. 23869 of 2019, passed away in the year 2004 and, thereafter, the petitioner of CWJC No. 24504 of 2019 married the deceased in the year 2006.

4. The controversy relates to payment of death-cum-retiral dues of the deceased employee. Learned counsel for the parties do not dispute that from the first wife, petitioners of CWJC No. 23869 of 2019 were born, who are still minors, whereas from the petitioner of CWJC No. 24504 of 2019, there are two sons and one daughter.

5. Learned counsel for the State submitted that till date, they have not paid any amount to any person due to the pending controversy between them.

6. On earlier occasion, the Court had given time to learned counsel for the respective parties to come up with a compromise formula, in accordance with law.

7. Today, the stand is that in terms of the provisions for payment of family pension, the petitioners of CWJC No. 23869 of 2019, being the minor children from the first wife be given 50% of the family pension in terms of the Government circulars/ Rules and the petitioner of CWJC No. 24504 of 2019, be given the



remaining 50%. With regard to all other retiral benefits, the common stand is that there are two children from the first wife, a second wife and three children from the second wife i.e., altogether six members of the family of the deceased employee.

8. In such background, it has been agreed between the parties that the remaining death-cum-retiral benefits of the deceased employee shall be apportioned between them equally i.e., would be divided into six parts, one each to the petitioners of CWJC No. 23869 of 2019, and one each to the petitioner of CWJC No. 24504 of 2019 and her three children. In effect, the petitioners of CWJC No. 23869 of 2019 would be given $\frac{2}{6} = \frac{1}{3}^{\text{rd}}$ of the total dues of the deceased employee whereas the petitioner of CWJC No. 24504 of 2019, who is the second wife would be given $\frac{4}{6} = \frac{2}{3}$ of the said dues for herself and her three children.

9. Learned counsel for the State readily agreed to the formula which does not violate any legal provision.

10. Having regard to the aforesaid, the writ petitions stand disposed off with a direction to the authorities concerned to pay 50% of family pension of the deceased employee to the petitioners of CWJC No. 23869 of 2019, through Mr. Umakant Tiwary, who is their maternal grandfather. The rest 50% shall be



paid to the petitioner of CWJC No. 24504 of 2019. Payment of family pension would be with up-to-date arrears. Similarly, 1/3rd of the other death-cum-retiral benefits would be paid to the petitioners of CWJC No. 23869 of 2019 through Mr. Umakant Tiwary, their maternal grandfather. The remaining 2/3rd amount shall be paid to the petitioner of CWJC No. 24504 of 2019 for herself and her three children.

11. The aforesaid exercise be taken to its logical conclusion expeditiously and latest within a period of six weeks from today.

12. The Court has been assured by learned counsel for the State that all formalities required to be performed shall be got done by the authorities and at best the petitioners may be called to the office to sign, but they shall not be liable for any missing records of the authorities, including the service book of the deceased employee.

13. Learned counsel for the State shall communicate the order to the authorities concerned for compliance.

(Ahsanuddin Amanullah, J.)

P. Kumar

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