

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4208 of 2023

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Rahul Paswan Son of Late Nand Kumar Ram Resident of Village and P.O.-
Tiyar, P.S.- Tiyar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Bihar, Patna.
2. The Director General of Police, Government of Bihar, Bihar, Patna.
3. The Deputy Inspector General of Police, Munger Region, Munger.
4. The Superintendent of Police, Jamalpur Railway, Jamalpur, District-
Munger.
5. The Superintendent of Police, Munger, District- Munger.
6. The Station Head Officer, Jamalpur Police Station, Jamalpur, District-
Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar, Advocate
		Mr. Rajeev Ranjan, Advocate
For the Respondent/s	:	Mr. Dhurendra Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 26-09-2023

Heard Mr. Mrigendra Kumar learned counsel appearing
on behalf of the petitioner and Mr. Dhurendra Kumar, learned
AC to GP 5 for the State.

2. Rejoinder filed on behalf of the petitioner is directed
to be kept on record.

3. The father of the petitioner went missing from his
duty while he was posted as *Hawaldar* at Jamalpur, taking leave
from his higher authorities for medical treatment in Jamalpur



hospital on 14.04.2018. He remained missing and thereafter the search was conducted by the departmental authorities but despite more than two years of searching, father of the petitioner could not be found and an FIR was lodged being Jamalpur P.S. Case No. 210 of 2021. The police has submitted the report that investigation is already going on till date and in the meantime, the petitioner has not been given terminal benefits treating that his father has left this world despite filing the present writ petition, claiming himself to be son of the employee, namely, Nand Kumar Ram.

4. The departmental authorities by filing a counter affidavit has brought on record Annexure R4/J and specific statement has been made in paragraph no.13 which is reproduced hereinabove:

“13. That the A.S.I. Ganesh Ram after conducting enquiry submitted report on 24.09.2021. In the report Ganesh Ram submitted that he went to the native village of Nand Kumar Ram and enquired about the same from the Mukhiya Ramjee Yadav, the Mukhiya also stated that Nand Kumar Ram is not present in the house. Letter has been sent to the information and Public Relation Officer Munger and the Superintendent of Police Munger to publish the report of traceless person vide Letter No.1337/RO dated 26.10.2021.”

5. The father of the petitioner was facing a departmental proceeding, however, the same was dropped on



19.07.2023, the petitioner is aggrieved for non-payment of terminal benefit payable to his father. In this regard, the respondents had agreed but communicated in the name of father of the petitioner, even though they were knowing that he has been declared missing. Petitioner has already furnished papers with respect to the claim as prayed for in the present writ petition.

6. The petitioner is aggrieved that the authorities even though have admitted the fact that the petitioner is son of the missing employee, namely, Nand Kumar Ram, has addressed in his name and not in the name of the petitioner which has forced the petitioner to file the present writ petition.

7. Considering the fact that mother of the petitioner has already died and petitioner has produced the certificate duly issued by the Circle Officer giving the details of the genealogy of the family of the petitioner, the concerned respondent must take steps to call for the certificate on record relating to the father of the petitioner and all the legal documents required for the purpose of grant of pensionary benefit to the petitioner due to his father who is missing till date and in support of said fact the FIR has been lodged, however, the authority has not endeavored to call for the final investigation report as to



whether the father of the petitioner has been declared dead as per the provision of Section 107 of Indian Evidence Act.

8. Considering the fact that FIR has been lodged by the respondents, a declaratory suit was required to be filed in accordance with the Indian Evidence Act with respect to missing of father of the petitioner since 14.04.2018.

9. In absence of above, in case the authorities find it proper that the petitioner as per the genealogical table furnished by the Circle Officer is entitled for the relief prayed for then in that case, they may proceed to make payment of retiral dues, due to the employee, in equal share to all his biological sons and daughters.

10. With above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2023
Transmission Date	NA

