

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10270 of 2020

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1. Rajmatiya Devi @ Rajwanti Devi W/o Late Ram Bachan Ram Resident of Village- Ekauni, P.S.- Kudra, District- Kaimur at Bhabua.
 2. Mithilesh Kumar S/o Late Ram Bachan Ram Under the guardianship of the petitioner- Rajmatiya Devi @ Rajwanti Devi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Accountant General Bihar, Patna.
3. The District Magistrate Kaimur at Bhabua.
4. The S.P Kaimur, Bhabua.
5. Smt Gulabi Devi W/o Ramkaran Ram Resident of Village- Baur, P.S.- Karahgar, District- Rohtas.
6. Smt Saroj Devi Wife of Vijay Ram Resident of Village Morsarai, P.S.- Shivsagar, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhakar Singh, Advocate
		Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Manoj Kumar, AC to GP-4
For the Respondent No. 4&5:		Mr. Anil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 22-06-2023 Heard Mr. Prabhakar Singh, learned counsel appearing on behalf of the petitioners; Mr. Manoj Kumar, learned AC to GP-4 appearing on behalf of the State and Mr. Anil Kumar, learned counsel appearing on behalf of the Respondent No.4 & 5.

2. Learned counsel appearing on behalf of the petitioners informs that all the retiral dues admissible to the



petitioner has been paid to the deceased employee and he was regularly being paid pension till he died on 26.02.2019. The dispute arose after the death of the petitioner as to who is entitled to receive family pension. The petitioner no.1 has claimed herself as second wife of the deceased employee and petitioner no. 2 has claimed himself to be the minor son of the deceased employee. The first wife of the petitioner had pre-deceased the deceased employee. On these grounds, the petitioner no. 1 has claimed that she is entitled to receive family pension on account of the death of her husband as well as also considering the fact that the first wife of the deceased employee had pre-deceased him.

3. During the pendency of the writ petition the minor son of the petitioner has been impleaded on the ground that he is entitled for family pension in accordance with the Government circular and resolution.

4. Learned counsel appearing on behalf of the State submitted that petitioner no. 1 has not been able to produce succession certification or any document in support of the fact that the petitioner no.1 is legally married wife of the deceased employee. He further submitted that the specific statement has also been made in paragraph no. 11 of the supplementary



counter affidavit filed on behalf of the Respondent No.4.

5. In paragraph no. 5 of the said counter affidavit, it has been stated that in terms of Finance Department Resolution No. PC-1-9-16/87-1853 F dated 19th April, 1990, in clause (ii) of para-7 “Family” for the purpose of Family Pension Scheme would include the following relatives of the officer:-

- (a) Wife, in case of a male officer;
- (b) Husband, in case of a female officer;
- (c) Minor sons; and
- (d) Unmarried minor daughters.

6. Learned counsel in these backgrounds has also relied on judgment passed by the Apex Court in case of ***Rameshwari Devi vs. State of Bihar and Ors.*** reported on **2000 (2) SCC 431**. Learned counsel has further submitted that in paragraph no.10 of the supplementary counter affidavit, a specific statement has been made that minor of the deceased employee is entitled for family pension in terms of the law laid down by the Apex Court.

7. Having considered the rival submissions made by the parties as well as the fact that neither the petitioner no.1 nor the petitioner no.2 has filed succession certificate in support of the fact that the petitioner no.1 is the wife of the deceased



employee and petitioner no.2 is the biological son of the deceased employee.

8. The requirement of law as on date is that in support of the claim, the petitioners must furnish a valid document to establish that petitioner no.1 is the wife of the deceased employee and petitioner no.2 is the biological son of the deceased employee.

9. According to the State Government circular a succession certification duly issued by the Court of competent jurisdiction is required in accordance with the Indian Succession Act, 1925.

10. The petitioners are directed to file a detailed representation along with the copy of valid documentary proof in support of their claim that petitioner no.1 is wife and petitioner no.2 is biological son of the deceased employee.

11. The concerned authorities after accepting the representation must verify from the evidence which has been adduced with the representation and grant family pension either to petitioner no.1 or petitioner no.2 in accordance with law.

12. The representation of the petitioners must be



decided within a period of six weeks from the date of filing of the representation adducing the evidences as required by the State Government.

13. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-
Nilmani/-

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