

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15262 of 2023

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Sunil Kumar Mahato S/o Late Kailash Mahto Resident of Mohalla-Saraiyaganj Behind Tejpal Building Maisthan, P.S. Town (Muzaffarpur), District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Union of India through its Secreary Food Corporation of India, Head Quarter New Delhi, 16-20 Barakhamba Lane New Delhi-110001.
2. The General Manager, Food Corporation of India, Head Quarter New Delhi, 16-20 Barakhamba Lane New Delhi-110001.
3. The General Manager (C.P.F.) Food Corporation of India, Zonal Office C10-A Middlet on Row Kolkata-700071.
4. The Divisional Manager Food Corporation of India, Division Office Krishna Complex Bibiganj H.H. 28, Muzaffarpur, District-Muzaffarpur Pin-842001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Kumar Singh, Advocate
For the FCI : Mr. Prabhakar Tekriwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-11-2023

Heard Mr. Yogendra Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. Prabhakar Tekriwal, learned counsel for the Food Corporation of India.

2. The petitioner has filed the present writ petition being the nominee of late Parvati Devi, who had died in harness on 11.06.2000, while working on the post of Grains Bags Stitcher, claiming that he is entitled for retiral dues under different heads, to which the deceased employee was required to be paid, like gratuity, provident fund, leave encashment etc. under different heads. The petitioner, at the same time, has also



claimed that he is entitled for family pension being the adopted son of the deceased employee. The ritual of adoption was solemnized and a registered deed of adoption vide Annexure 1 has been brought to the writ petition. The deceased employee had died on 11.06.2000.

3. Learned counsel appearing on behalf of the Food Corporation of India submits that the law relating to the right of a nominee is well settled by the Apex Court in the case of **Sarbati Devi and Anr. v. Smt. Usha Devi, reported in (1984)1 SCC 424**. He next submits that the adoption appears to have not taken in accordance with the Hindu Adoption Act, as no evidence with respect to the give and take by original parents of the petitioner has been refereed in any manner, nor such adoption has been confirmed by the competent civil court in accordance with law.

4. The relief, as prayed for in the present writ petition, with respect to the payment of reitiral benefits can only be claimed by legal representative of the deceased employee in accordance with with law governing the heir in accordance with the Hindu Succession Act. The petitioner, being nominee, can only be treated to be custodian of the retiral benefits in view of the law laid down by the Apex Court in **Sarbati Devi** (supra).



The pensionary benefit is required to be distributed in equal share among all the legal representatives of the deceased employee in accordance with Hindu Succession Act.

5. This Court will not go into the question of entitlement of the petitioner whether his adoption is in accordance with law for which he has remedy before the competent civil court for seeking declaration to be the adopted son of the deceased employee.

6. With the aforesaid observations, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2023
Transmission Date	NA

