

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.265 of 2023

Abha Kumari, aged about 29 years, Female, D/o Sri Krishna Nandan Thakur, Wife of Late Shailendra Sharma, Ex-Loco Pilot, Danapur under E.C. Railway, Hajipur. Resident of Mohalla- Bari Khagaul Phatak Par, P.S.-Khagaul, District-Patna, presently Residing at Mohalla-Walipur, Ward No.20, P.O.-Barh, District-Patna, PIN-803213

... .. Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway, Hajipur, At and P.O.-Hajipur, District-Vaishali (Bihar) 844101
2. The Sr. Divisional Personnel Officer, E.C. Railway, Danapur inadvertently typed in CAT as 'the Divisional Senior Executive Officer, E.C. Railway, Danapur.'
3. The Chief Personnel Welfare Inspector, E.C. Railway, Danapur inadvertently typed in CAT as the Chief Staff Welfare Inspector, E.C. Railway, Danapur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Uma Kant Mishra, Advocate
For the Respondent/s	:	Mr. Additional Solicitor General
For the Railways	:	Mr. Kumar Priya Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

6 05-04-2023 In the instant writ petition, petitioner has prayed for
the following relief(s):-

“(i) For issuance of an appropriate writ/writs in the nature of certiorari for quashing the impugned order dated 08.02.2022 (Annexure-1) passed by learned Central Administrative Tribunal Patna Bench Patna in Petitioner's O.A. No.050/00014 of 2022 whereby and where under the Original application filed on behalf of the petitioner has been dismissed



wrongly, erroneously, illegally and without application of judicial mind in right perspective and as such the same is liable to be set aside by this Hon'ble Court.

(ii) For issuance of an appropriate writ/ writs in the nature of mandamus directing/ commanding the concerned respondents to consider the case of the petitioner in accordance with law and to grant her family pension after setting aside the order dated 26/29.11.2021 (Annexure-7) with all consequential benefits.

(iii) Any other appropriate relief/ reliefs may also be granted to the petitioner for which she is found entitled in the facts and circumstances of the case.”

Core issue involved in the present *lis* is whether Abha Kumari-Petitioner is entitled to any monetary benefits arising out of emolument of Late Shailendra Sharma or not as petitioner- Abha Kumari has been contending that she is the legally wedded wife of the late Shailendra Sharma.

From perusal of record, it is evident that deceased Shailendra Sharma while he was alive has not nominated petitioner-Abha Kumari as his nominee in any of his service record. There are certain disputed facts relating to whether marriage of petitioner-Abha Kumari with Late Shailendra Sharma was valid marriage or not? In this regard, the petitioner has only remedy in filing a suit for declaration that she is a legally wedded wife of deceased-Shailendra Sharma. The



disputed matters cannot be adjudicated under Article 226 of the Constitution of India in entertaining writ petition. Therefore, the petitioner has not made out a *prima facie* case, so as to interfere with the order of CAT dated 08.02.2022 passed in O.A No. 050/00014/2022.

Accordingly, the writ petition stands dismissed.

Dismissal of the present petition would not come in the way of filing suit for declaration that petitioner-Abha Kumari is legally wedded wife of deceased-Shailendra Sharma. In the event of judicial declaration that petitioner is legally wedded wife of later Shailendra Sharma, petitioner is at liberty to re-agitate her right before the official respondents.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/Daya/-

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