

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1057 of 2020

Radha Devi wife of Late Arbind Kumar Permanent Resident of Village and Post- Arthu, P.S.- Dinanra, District- Rohtas, At present residing at Ward No. 22, Khagara Halim Chowk, Kishanganj Bazar, P.S.- Kishanganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Purnea Division, Purnea.
3. The District Magistrate, Kishanganj.
4. The Additional Collector (Establishment), District- Kishanganj.
5. The Land Reforms Deputy Collector, District- Kishanganj.
6. The Sub- Divisional Officer, Kishanganj.
7. The Block Development Officer, DighalBank lock, Kishanganj.
8. The Principal Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajey Kumar
For the Respondent/s : Mr.Sajid Salim Khan (Sc25)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 04-02-2023 Heard learned counsel for the petitioner and learned counsel for the State.

Pursuant to order dated 13.02.2020, counter affidavit has been filed on behalf of respondent no. 8 / Principal Secretary, General Admn. Department wherein the matter has been fully discussed. It would be appropriate to quote paragraphs 7 and 8 of the counter affidavit, which is as follows:-

“7. That in this context, it is humbly and respectfully submitted that this department, vide



its letter No. 16019 dated 07.09.2022, issued a specific directive to all the concerned authorities regarding disposal of pending appeal after the demise of any Government Servant, which is as follows:-

‘Apparently the aforesaid opinion is quite valid as law in this regard is quite clear that no penalty can be imposed against a died person. Even in criminal cases, if death of an accused occurs before conclusion of the trial, the same stand abated against the deceased accused and cannot be reviewed.

However, the situation changes once a departmental proceeding has been concluded and a penalty has been imposed during the life time of the employee. As the award of penalty visits the employee with civil consequences it gives him a right to appeal. Obviously therefore, in case the employee dies during the pendency of an appeal filed by him, the cause of action will still survive for his legal heirs who might be affected with Civil consequences of the order of penalty. Hence in my opinion once the initial departmental proceeding is concluded and a penalty is awarded and thereafter the employee dies, his legal heirs acquire a right to get substituted and contest an appeal against the order of penalty and equally can agitate the matter before the higher court and also by filing a writ.’



8. That in the light of the circular No. 16019 dated 07.09.2022 of the General Administration Department, Bihar, Patna, the Commissioner, Purnea Commissioner, Purnea and District Magistrate, Kishanganj have been directed to comply with order dated 13.02.2020 passed by the Hon'ble Court in C.W.J.C. No. 1057/2020 (Radha Devi vs. Bihar State and others).”

In that view of the matter, the writ petition is disposed of granting liberty to the petitioner to move before the competent authority / Commissioner, Purnea Commissioner, Purnea by filing an appeal within a period of four weeks from the date of receipt/production of copy of this order. If such appeal is filed within aforesaid time, the appellate authority is directed to dispose of the same *on merit* by a reasoned and speaking order within a period of four months from the date of filing of such appeal.

With above observation and direction, the writ petition is disposed of.

(Prabhat Kumar Singh, J)

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