

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7432 of 2022

=====

Animesh Ranjan, Son of Late Ram Chandra Prasad Sinha, Resident of A-46,
Magistrate Colony, Road No. 3A, Ashiana Road, P.S.- Rajiv Nagar, District-
Patna, Pin- 800025

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department, Government of Bihar, Patna.
4. The Superintendent of Police, Vigilance Department, Government of Bihar, Patna.
5. Ambrish Ranjan Son of Late Ram Chandra Prasad Sinha Resident of A- 46, Magistrate Colony, Road No.3A, Ashiana Road, P.S.- Rajiv Nagar, District-Patna, Pin- 800025.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Prabhat Kumar Dipak, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, GP-5
For the Vigilance	:	Mr. Anil Singh, Advocate
For the Resp. No. 5	:	Mr. Raju Giri, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 13-11-2024

Heard Mr. Mrigank Mauli, Learned Senior
Advocate for the petitioner with Mr. Prabhat Kumar Dipak,
learned Advocate, Mr. Nadim Seraj, learned Advocate for the
State, Mr. Anil Singh, learned Advocate for the Vigilance and
Mr. Raju Giri, learned Advocate for the respondent no. 5.

2. The petitioner, who is none else but the full
brother of respondent no. 5, has come before this Court by
invoking its jurisdiction seeking quashing of the memo no.



11797 dated 11.12.2020 issued by the Under Secretary, General Administration Department, Government of Bihar, whereby a decision has been taken to incorporate the name of respondent no. 5 as the beneficiary of family pension after the demise of his mother. The petitioner also sought a direction upon the respondent to remove the name of respondent no. 5 as the beneficiary of family pension and direct to conduct an enquiry with regard to the disability certificate of respondent no. 5, on the basis of which he procured the family pension.

3. Learned Senior Advocate narrating the short facts of the case has contended that the father of the petitioner was an officer of Indian Administrative Service and was serving in the State of Bihar. He finally superannuated in the year 1995 and died on 26.06.2017, leaving behind his wife Vishwamohini Sinha, two sons and two daughters.

4. Upon the death of the father of the petitioner, the benefit of family pension has been extended to the mother of the petitioner who also died on 27.10.2020. In the mean time, the respondent no. 5, the elder brother of the petitioner had procured certificate of disability, issued on 07.04.2003 by one Vocational Rehabilitation Centre showing 40% of disability.

5. Subsequent thereto, the petitioner in collusion



with the officers of the Health Department, got another disability certificate on 08.06.2004 by office of the Civil Surgeon-cum-Chief Medical Officer, Patna showing the disability to the extent of 55%. Basing upon the disability certificate, the elder brother of the petitioner had applied for the benefit of the family pension and on receipt thereof, the Under Secretary, General Administration Department vide letter no. 11797 dated 11.09.2020, recommended the claim of the petitioner to the Accountant General, Bihar to incorporate his name after the death of his mother, for benefit of the family pension on the basis of such disability certificate.

6. Learned Senior Advocate for the petitioner contended that apart from the fact that the disability certificate was a forged one, as the two certificates issued by the Central Government and the State Government are contrary to each other. This is also the fact that the respondent no. 5 is not a handicapped or disabled person who has been living his life as a common abled body. Moreover, the wife of the respondent no. 5 is working with Bihar State Co-operative Land Development Bank and having a source of income and can very well sustain her family.

7. The mother of the petitioner had made a serious



objection to the claim of respondent no. 5 as beneficiary of family pension on account of his misconduct and quarrelsome nature, who has been continuously engaged in causing mental and physical torture to his mother and other family members. He has also indulged in extorting family pension from his mother. On account of the aforesaid fact, the mother of the petitioner had also filed an application before the S.H.O., Rajiv Nagar, seeking police protection to her life and property and to take legal action against her elder son (respondent no. 5).

8. *Per Contra* learned Advocate for the State submitted that in terms of Sub-Rule 7 of Rule 22 of All India Service (Death-cum-Retirement Benefits) Rules, 1958 there is a clear stipulation that if the son or daughter of a member of service is suffering from any disorder or disability of mind including the mentally retardation or is physically crippled or disabled so as to render him or her unable to earn a living, even after attaining the age of 25 years, may be entitled to get family pension.

9. It is further contended that on receipt of the application submitted by respondent no. 5, he was asked to submit the latest disability certificate whereupon the latest disability certificate issued by the Medical Board under the



Chairmanship of Civil Surgeon, Patna was made available to the department. After proper verification and getting the authenticity of the certificate confirmed by the Civil Surgeon-cum-Chief Medical Officer, Patna, the recommendation has been made to the Accountant General (A & E) Bihar to incorporate the name of respondent no. 5 in pension payment order of his late father vide letter no. 11797 dated 11.12.2020.

10. The respondent no. 5 also appeared through his counsel and submits at the Bar that at the very outset the writ petition is not maintainable on account of any locus to the petitioner, in as much as, no harm or any injury has been caused to the writ petitioner by incorporating the name of respondent no. 5 as the beneficiary of family pension. Reference has also been made to Sub-Rule 7 of Rule 22 of All India Service (Death-cum-Retirement Benefits) Rules, 1958. It is also contended that on account of personal grudge and malice, the present writ petition has been filed.

11. Having heard the learned Advocate for the respective parties, and after perusal of the materials available on record, this Court is of the view that Second Proviso to Sub Rule 7 of Rule 22 of All India Service (Death-cum-Retirement Benefits) Rules, 1958 empowers the authorities to extend the



benefit of family pension after the demise of the member of the All India Services and his spouse, in case if the son or daughter of a member of service is suffering from any disorder or disability of mind, including the mentally retarded or is physically crippled or disabled, so as to render him or her unable to earn a living even after attaining the age of 25 years, the family pension shall be payable to such son or daughter for life, subject to the condition stipulated therein.

12. It is admitted position that way back in the year 2004 the medical certificate issued by the office of the Civil Surgeon-cum-Chief Medical Officer, Patna in favour of the petitioner disclosed the disability to the extent of 55%. Upon submission of the application for family pension on the basis of disability, an upto date disability certificate was called for by the Medical Board. The Medical Board under the Chairmanship of Civil Surgeon-cum-Chief Medical Officer, Patna had certified vide its certificate dated 05.08.2020 holding that the respondent no. 5 is disabled to the extent of 55% and, as such, unable to earn his living on his own. The genuineness of the certificate has also been verified before the recommendation to the Accountant General (A & E) Bihar, Patna to incorporate the name of the respondent no. 5 in the pension payment order of



the erstwhile employee.

13. This Court also does not find any illegality in the procedure adopted by the State Officials in extending the benefit of family pension to a disabled son in accordance with the prescriptions provided under the Rules, 1958.

14. Moreover, the respondent no. 5 was duly examined by the Medical Board under the Chairmanship of Civil Surgeon-cum-Chief Medical Officer, Patna and after proper examination, the certificate has been issued. The petitioner is also not an aggrieved person and, as such, lacking any locus to assail the impugned order.

15. The aggrieved person is someone who has been harmed by an order or by an action of any person or the authorities, however in the case in hand, this Court does not find that the impugned order in any manner transgresses the right and entitlement of the petitioner or causing any harm.

16. The writ petition sans any merit, fit to be dismissed.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.11.2024
Transmission Date	NA

