

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19598 of 2012

Most. Sonbarsi Devi Wife Of Late Ram Karan Ram Resident Of Village-
Husepur Kalhata Kamal, Police Station- Maharajganj, District- Jan Pat
Azamgarh U.P.

... .. Petitioner/s

Versus

1. The Union Of India, New Delhi
2. The Managing Director, Food Corporation Of India, 16/20, 12 Khambha Road, New Delhi
3. The Zonal Manager, Food Corporation Of India, 10a Middleton Road, Calcutta- 700071 West Bengal
4. The Executive Director East Zone Food Corporation Of India, Zonal Office East Kolkata- 700071
5. The Regional Manager, Food Corporation Of India, Exhibition Road, P.S.- Kotwali, Patna Bihar
6. The Manager, Food Corporation Of India, Panchananpur, Gaya, District- Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramadhar Shekhar, Advocate
For the FCI	:	Mr. Prabhat Kumar Verma, Sr. Advocate
For the Respondent/s	:	Mr. Rakesh Kumar Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-06-2024

Heard learned counsel for the parties.

2. Learned counsel appearing on behalf of the petitioner informs that the petitioner's husband had died on 18.09.1978, while working on the post of Assistant grade II(D), Food Corporation of India (in short 'the F.C.I') at Food Storage Depot, Gaya. Petitioner had approached the authority concerned for retiral dues and compassionate appointment of her son to meet the hardship faced by the family. It has been



submitted that the deceased employee was the sole bread earner and the family's livelihood depended on her husband's income. Learned counsel further submitted that till date full amount of retiral dues has not been paid and her claim for compassionate appointment has been rejected on frivolous ground and in this background seeks quashing of the order dated 19.12.2011, by which the claim of the petitioner for appointment of her son on compassionate appointment has been denied.

3. Per contra Mr. P.K. Verma, learned Senior Advocate appearing on behalf of the Food Corporation of India submitted that the petitioner had earlier approached this Court by filing C.W.J.C. No. 8859 of 2010 for similar reliefs and this Court vide order dated 19.05.2010, considering the pleadings made in said writ petition and the relief sought for by the petitioner, had directed the petitioner to file a representation before the respondent No. 4 giving the details of unpaid claims and the respondent No. 4 was directed to consider the claims of the petitioner in accordance with law expeditiously, preferably within a period of four months on receipt of such representation. Learned senior counsel submitted that in compliance of the order dated 19.05.2010 passed by this Court, the respondents have taken steps to make payment of entire retiral dues to the



petitioner and in this respect specific statement has been made in paragraph Nos. 5, 6, 7 and 8.

4. Learned counsel however, admits that no information has been given whether the entire amount of interest accrued under different heads of retiral dues was paid from the effective date i.e after the death of the petitioner's husband on 18.09.1978. In absence of correct information the same is required to be verified by the Corporation.

5. Learned senior counsel has further submitted that, so far as, the claim of the petitioner that her son be considered to be appointed on compassionate ground cannot be sustained as it is an admitted fact that soon after the death of the deceased employee the petitioner or her son had not claimed or had filed application before the competent authority for considering the claim for appointment of her son on compassionate ground and in this regard learned senior counsel has relied on circular of the Department of Personnel and Training, Government of India, by referring required criteria mentioned therein in paragraph no. 5 of the order dated 19.12.2011. Learned counsel submits that the claim of the son of the petitioner for compassionate appointment has been rejected in view of the conditions mentioned in paragraph No. 5.



6. Heard the parties.

7. I find it apt to reproduce paragraph no. 5 of the order dated 19.12.2011 *inter alia* is as follows :-

“As per policy of the Respondent’s Corporation, the compassionate appointment previously used to be made upon death of an employee against the vacancy of the Direct Recruitment Quota and there were number of instructions pertaining to compassionate appointment. The instructions regarding compassionate appointment are prescribed in the office Memorandum No. 14014/6/94-Estt(D) dated 09.10.1998 revised/simplified and consolidated the then existing instructions from making compassionate appointment under Central Govt. by way of scheme to supersede all the existing instructions and No. 14014/19/2002-Estt(D) dated 05.05.2003 of Govt. of India, Ministry of Personnel, Public Grievances and Pension.”

8. It is well settled principle of law settled by the Hon’ble Supreme Court that a person seeking compassionate appointment is required to show that the family is faced with the hardship as a result of death of the sole bread earner of family. In the present case the petitioner has sustained her family and herself after the death of her husband which took place on 18.09.1970.

9. The husband of the petitioner had died on 18.09.1978 and the petitioner had never approached the authority either for



payment of retiral dues of her husband or getting her son appointed on compassionate ground rather from the record, it is found that an imposter in the name of the petitioner had got herself appointed on compassionate ground in the year 1979, which was detected by the respondent in the year, 1994 and order of termination was passed along with recovery of wages etc., along with interest vide order dated 17.05.1994 against the impostor. Thereafter the decision of the Corporation was subject matter of money suit No. 60 of 1997. The competent civil Court *vide* judgment and decree dated 31.08.2005 has declared that the petitioner herself being defendant No. 2 to be the real wife of Late Ram Karan Ram by framing following issues :

- “ 1) Is the suit as framed maintainable ?*
- 2) Has the plaintiff got valid cause of action for the suit ?*
- 3) Is the suit barred by law of acquiescence, waiver, and estoppel ?*
- 4) Is the suit barred by law of limitation ?*
- 5) Is the suit barred by non-joindor and mis-joindor of necessary parties ?*
- 6) Is the defendant no. 1 legal married wife of Late Ram Karan Ram ?*
- 7) Is the defendant no. 2 impostor and her heirs son and daughter of Late Ram Karan Ram ?*
- 8) Whether the plaintiff is entitled for the relief as claimed by him ?*



9) Whether the written statement of defendant no. 2 can be treated as counter claim if so whether defendant no. 2 is entitled for relief as claimed in the so-called counter-claim ?

10) To what relief or reliefs, the plaintiff is entitled for ?”

10. On the basis of the discussion made in the judgment, a specific finding has been given in respect of the entitlement of the petitioner in paragraph No. 13 that the defendant No. 1 is not a legally wedded wife. Based on the said judgment, the petitioner claimed her entitlement of her son for being considered to be appointed on compassionate ground had applied before the authorities of the Corporation along with her claim for payment of retiral dues in light of the order dated 19.05.2010 in CWJC No. 8859 of 2010 passed by this Court.

11. On perusal of the Counter Affidavit in paragraphs Nos. 5 to 8 the respondents have stated that the payment of retiral dues under different heads has been made, however, in absence of any specific statement as to whether the interest accrued under different heads of retiral dues was paid from the effective date i.e after the death of the petitioner's husband on 18.09.1978 is not specific. Law in regard to payment of retiral dues is well settled in case of **D.S. Nakara & Ors vs. Union of**



India reported in **(1983) 1 SCC 305** and in accordance with the law laid down by the Apex Court in **D.S. Nakara**(supra) entitles for interest on delayed payment from the period the dues has not been paid from the due date. The petitioner is entitled in accordance with law the interest well within a period of six weeks from the date of communication of this order/representation.

12. So far as the claim of the petitioner for appointment of her son on compassionate ground, the same I find is not sustainable considering the fact that the petitioner has sustained herself and her family till date from the death of her husband which took place on 18.09.1978. Law in this regard is well settled by the Apex Court in case of **Umesh Kumar Nagpal v. State of Haryana and Others** reported in **(1994) 4 SCC 138**.

13. The writ petition is accordingly, disposed of.

(Purnendu Singh, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

