

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11707 of 2024

Mostt. Mridula Devi, W/o Late Brahamdeo Giri Ex-Peon, Patna High Court
Resident of Qtr. No. - 457/800, Shastri Nagar, L.B.S. Nagar Patna, Presently
Resident of Ravindra Sharda Niketan, Near Nalkoop Bhawan, A.G. Colony,
P.S. - Shastri Nagar, Dist. - Patna.

... .. Petitioner/s

Versus

1. The High Court of Judicature at Patna Through the Registrar General Patna High Court, Patna.
2. The Registrar General, Patna High Court, Patna.
3. The Registrar (Establishment) I/C, Patna High Court, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Praveen, Advocate
For the Patna High Court : Mr. Piyush Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 07-08-2024 The issue involved in the instant writ petition is as to whether the second wife of an employee who died in harness is entitled to get a compassionate appointment to save her family from peril. It is not in dispute that the deceased employee had his first wife named Sabita Kumari, who is presently working in this Court on a Class-IV post. It is contended by the petitioner that as the deceased employee and his first wife had been residing separately for a continuous period of 25 years, the deceased had married the petitioner, and in their wedlock, the petitioner gave birth to four children; two of whom are minors, and the other two children are unemployed.

2. The petitioner's application for compassionate



appointment was twice rejected by this Court on its administrative side. On perusals of the said orders, this Court finds that no reason has been assigned in support of rejection of the petitioner's application.

3. Learned Advocate appearing on behalf of the High Court Administration submits that the marriage of the petitioner with the deceased employee was *ab initio* void because during the subsistence of the first marriage of the deceased employee, he could not marry the petitioner. Since the marriage of the petitioner is illegal and void according to the provision of Section 5 of the Hindu Marriage Act, the petitioner is not entitled to a compassionate appointment.

4. Similar issue was raised before this Court in the case of *Mosmat Usha Kuar v. State of Bihar*, reported in **1997 SCC OnLine Pat 568**. A Co-Ordinate Bench of this Court disposed of the above-mentioned case with the following observations:-

“8. So far as the Bihar Government Servant Conduct Rules, 1976 is concerned, the same was applicable to the husband of the petitioner, while he was in service. After his death the said rule cannot be made applicable in the matter of appointment of widow-petitioner.



9. So far as the marriage of petitioner with Laldeo Singh is concerned, the respondents cannot ignore the same giving reference of Hindu Marriage Act, 1965, particularly when they have accepted the petitioner as second wife of late Laldeo Singh and have paid the postdeath benefits. It has not been disputed by the respondents that the first wife, Most. Sumitra Kuar, has not made any application for her appointment on compassionate ground.”

5. In the instant case also, the petitioner applied for post-death benefits, which was initially objected by the first wife of the deceased employee. However, subsequently, she withdrew her objection and declared that she has no objection if post-death benefits are paid to the present petitioner.

6. Considering such aspect of the matter, the instant writ petition is disposed of directing the competent authority in the High Court of Judicature at Patna to reconsider the application of the petitioner in the light of the decision of this Court in the case of ***Mosmat Usha Kuar*** (Supra) as well as the Hon'ble Apex Court's decision in ***Lakshmi @ Lakshamma & Ors. Vs. Chamundamma & Ors. (Civil Appeal No. 3479 of 2018)*** decided on 02nd April 2018 and pass a reasoned order in respect of the application filed by the petitioner.

7. Accordingly, the impugned orders dated 05.10.2023



(Annexure-4) and 25.01.2024 (Annexure-6) be quashed.

8. The instant writ petition is thus, allowed.

9. Further, the competent authority of the Patna High Court Judicature is requested to dispose of the application of the petitioner within 60 days from the date of this order in accordance with the prevailing law.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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