

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13475 of 2023

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Romi Feleex Thomas Son of Selba Raju Resident of Jayshri Tower, 3rd Floor
Room No. 302, Opp Modi Super Bazar Building, Vinod Nagar Chowk,
Chiragora Road, P.s.-Dhanbad, District-Dhanbad (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
3. The Superintendent, Government Medical College Hospital, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra with
Mr. Surya Narayan Sah,
Mr. Rakesh Kumar Pandey,
Mr. Shishira Pathak and
Ms. Shalini Mishra, Advocates
For the State : Mr. Kamlesh Kishore, AC to SC 12

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 03-01-2024

Heard Mr. Sushmita Mishra, learned counsel appearing
on behalf of the petitioner and Mr. Kamlesh Kishore, learned
counsel for the State.

2. The petitioner by invoking the extraordinary writ



jurisdiction of this Court under Article 226 of the Constitution of India is seeking a direction upon the respondents to ensure payment of all the retiral dues alongwith statutory interest of his aunt namely, Hilda John, who had been working as Grade A Nurse in Government Medical College Hospital, West Champaran, Bettiah and died issueless on 05.10.2009.

3. It is submitted on behalf of the petitioner that the petitioner had been taking all good care of his aunt during her lifetime and at the time, when she had been suffering from cancer, she had executed a Will dated 26.12.2008 in his favour, which was subsequently probated in favour of the petitioner vide judgment dated 23.12.2022 by the Principle District Judge, Dhanbad in Original Suit No. 12/2022.

4. It is further submitted that time without number the petitioner requested for payment of retrial dues of his aunt with statutory interest but to no effect. He also filed an application under Right to Information Act, enquiring about the entitlement and status of the terminal dues but the respondent kept on avoiding to give information on one pretext or the other compelling the petitioner to move before this Court in CWJC No. 2827 of 2020 which was disposed of vide order dated 28.02.2020 with liberty to the petitioner to approach the First



Appellate Forum. Learned counsel next submits that the judgment dated 23.12.2022 passed by the Principal District Judge, Dhanbad had also been placed before the respondents with a request to ensure payment of all the retiral dues but the respondent authorities are sitting tight over the matter and, thus, the present writ petition.

5. A counter affidavit has been filed on behalf of the respondent No. 3. Referring to the averments made therein, submission has been made that, notwithstanding, the claim of the petitioner to be successor of the deceased employee, Hilda John, there are other two more persons, who were also claiming to be successor of the deceased employee. One Piter John claiming to be adopted son of Hilda John had also filed an application way back on 29.12.2009 claiming the benefit of retiral dues of late Hilda John. Similarly, one Ruth John claiming to be adopted daughter of deceased Government employee made an application on 27.11.2009 and 18.08.2010 for payment of death-cum-retiral benefits. Several documents have also been placed in support of their claim.

6. Learned counsel for the State next submitted that the petitioner, for the first time, after 9 years of the death of deceased employee, made an application under Right to



Information Act to get the information about the entitlement of the deceased employee and informed the Department that he has also filed a suit for issuance of Succession Certificate before the competent court but in his application he had never mentioned that any Will has been executed by late Hilda John in his favour and probate has been filed in any court. He next submitted that in such view of the matter, it is very difficult for the authorities concerned to ensure payment of terminal benefits to the petitioner, all the more the petitioner is nephew of the deceased employee and the government circular does not empower the authority to ensure payment of retiral benefits to the nephew.

7. Considering the submissions advanced on behalf of learned counsel for the parties and taking note of the nature of dispute and also the fact that a probate has been granted in favour of the petitioner vide judgment dated 23.12.2022 by the learned court of Principal District Judge, Dhanbad, it would be proper to relegate the matter to the respondent no. 3, who shall issue notice to all the three claimants and direct them to produce valid legal documents in favour of their claim and after considering the documents and their submissions, shall pass a reasoned and speaking order preferably within a period of 12 weeks from the date of receipt/production of a copy of this



order, in accordance with law.

8. The writ petition stands disposed of with the
aforementioned observations and directions.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2024
Transmission Date	

