IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24017 of 2019

==

Smt. Pinki Sharma, W/o Mukesh Sharma, D/o Late Bhagirath Sharma @ Bhagirath Mistry, resident of Mohalla- Safiabad, P.S. Naya Ram Nagar, District- Munger at Present resident of ward no. 20, Rajendra Nagar, Sonhauli, P.S. and Dist.- Khagaria.

... ... Petitioner/s

Versus

1. Smt. Indrani Devi R/o- Village- Mahgama, P.S.- Mahgama, District- Godda (Jharkhand).
2. Sri Sonu Kumar S/o- Smt. Indrani Devi, resident of Village- Mahgama, P.S.- Mahgama, District- Godda (Jharkhand).
3. Chairman-Cum- Managing Director, Raj Mahal Project, Eastern Coal Field Limited, Lalmatiya Colliery, P.S.- Lalmatiya, District- Godda (Jharkhand).
4. The Chief General Manager, Raj Mahal Project, Eastern Coal Field Limited, Lalmatiya Colliery, P.S.- Lalmatiya, District- Godda (Jharkhand).
5. The Personnal Officer, Raj Mahal Project, Eastern Coal Field Limited, Lalmatiya Colliery, P.S.- Lalmatiya, District- Godda (Jharkhand).

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Durgesh Nandan, Advocate
For the ECFL	:	Mr. V.M.K. Sinha, Advocate
For the Resp Nos.1&2	:	Mr. Dineshwar Pandey, Advocate.

==

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 10-07-2025

Heard the parties.

2. The petitioner has approached this Court seeking a direction upon the respondents to ensure payment of all the benefits of her deceased-husband, who was an employee under the office of the respondents no.3 to 5 and died in harness on 24.01.2001, while working as Foreman.

3. Before proceeding further, it would be pertinent to note here that the sole-petitioner died during the pendency of the

writ petition and the daughter of the sole petitioner (respondent no.3) has been transposed/substituted pursuant to the order of this Court.

4. Learned Advocate for the petitioner contended that the marriage of the original petitioner was solemnized with Bhagirathi Mistri on 16.04.1975 at Safiabad in the district of Munger. Out of their wedlock, a daughter was born; who is presently petitioner herein and has been pursuing their case. While the erstwhile employee was residing at Lalmatiya along with his wife and daughter, he developed some illicit relationship with private respondent no.1 and started residing with her. Subsequently, the original petitioner was ousted from her matrimonial home. A Maintenance Case bearing no. 52(M) of 1996 came to be filed under Section 125 of the CrPC. Upon notice, the erstwhile employee entered his appearance and after hearing the parties, learned Magistrate has directed to pay Rs.450/- per month to the original petitioner as maintenance. It is further contended that during the pendency of the matrimonial suit, the erstwhile employee also filed Divorce Suit under Section 13 of the Hindu Marriage Act; however, in the meanwhile, he died in harness, leaving behind the petitioner and her daughter. Upon death of the erstwhile employee, the petitioner approached the authorities of the Eastern Coal Field Limited for settlement of death-cum-retiral claim; however,

since there was some dispute with regard to nomination made by the erstwhile employee, who nominated the name of respondents no.1 and 2; hence, the original petitioner was asked to bring succession certificate. The original petitioner filed Title Suit No.57/2002, which finally came to be decreed in favour of the petitioner on 14.01.2013, the copy of the judgment and decree has been placed on record as Annexure-1. The case of the petitioner is rest upon the judgment and decree passed in favour of the original petitioner, basing upon which it is submitted that notwithstanding the fact that she declared as legally wedded wife of the erstwhile employee, denial of death-cum-retiral benefit is absolutely unjustified and illegal.

5. Learned Advocate for the petitioner further contended that the respondent authorities in collusion with the private respondents, in hot haste manner distributed all the death-cum-retiral benefits in their favour without waiting for order by a competent authority/court, which also shows *mala fide* on their part.

6. Referring to the order of this Court dated 06.01.2020, it is further urged that the learned Court has categorically directed that until further orders, no remaining payment shall be made to any of the parties; nonetheless, the private respondent no.1 was allowed family pension till her death. All the more, the respondent no.2 has also been allowed

appointment on compassionate ground.

7. Upon notice, private respondents no.1 and 2 entered their appearance and made preliminary objection regarding maintainability of the case on account of territorial jurisdiction, besides other submissions.

8. A counter affidavit on behalf of the respondent no.5 has also been filed.

9. Mr. Sinha, learned Advocate for the Eastern Coal Field Limited has submitted that admittedly the erstwhile employee died on 24.01.2001 while he was in service in Eastern Coal Field Limited having Unique Man No.403767 from the post of Foreman. Referring to the employees service record (Annexure-A to the writ petition), learned Advocate for the Eastern Coal Field Limited, has vehemently submitted that the erstwhile employee had nominated the name of Smt. Indra Devi as nominee for employment in the event of his premature death as also further for receiving Gratuity. Based upon the service record, the Eastern Coal Field Limited had extended the benefit of Gratuity and payment of CMPF in favour of the respondent no.1. It is further contended that CMPF Authority has not been made as a party to the writ petition whereas it is the CMPF, which is authorized to pay family pension and in absence of CMPF as a party respondent, the respondent no.1 was allowed family pension till her death.

10. Learned Advocate for the Eastern Coal Field Limited further informed this Court that Miscellaneous Case No.108 of 2017 was also filed by the original petitioner in the Court of Principal Judge, Family Court, Munger in Title Suit (Matrimonial) No.57/2022, for execution of the judgment and decree dated 14.01.2023, however, it came to be dismissed, thus till date the judgment and decree has not been executed. He further submitted that even after getting judgment and decree in her favour, the respondent no.1 has never approached before the authorities concerned and after this belated stage, the present writ petition came to be filed. While concluding his argument(s), a plea of jurisdiction has also been taken by the learned Advocate for the Eastern Coal Field Limited that since the erstwhile employee superannuated from the State of Jharkhand, the present writ petition is not maintainable on account of lack of territorial jurisdiction.

11. Before parting with the case, it would be proper to deal with the preliminary objection raised by the respondent. Well settled it is that if a part of the action arises with the territorial jurisdiction of a High Court, the same shall very well be considered by the High Court, within whose jurisdiction the part of the cause of action has arisen and if the party successfully established that his/her legal right is at stake. In essence territorial jurisdiction in part, retiral benefits cases is

about ensuring that the retired employee(s) and his/her widow and dependents can access justice in a fair and convenient manner without being forced to travel to distant place to resolve their claims. Reference in this regard may be taken to a decision rendered by the Apex court in the case of **Shanti Devi @ Shanti Mishra v. Union of India and Others [(2010) 10 SCC 766]**.

12. In view of the afore-noted proposition, this Court does not find any merit in the preliminary objection, the same stands overruled.

13. This Court had the occasion to consider the scope and effect of nomination. In the case of **Raj Lakshmi Mishra and Another v. Chairman cum Managing Director, Canra Bank and Others [2024 SCC OnLine Pat 7851]**, wherein highlighting various rulings of the Apex Court, observed as follows:-

> "13. …...The Apex Court had the occasion to consider the scope and effect of "nomination" in case of **Shipra Sengupta v. Mridul Sengupta & Ors., (2009) 10 SCC 680**. Placing reliance upon an earlier decision rendered in the case of ***Sarbati Devi & Anr. Vs. Usha Devi*** **[(1984) 1 SCC 424** the Hon'ble Supreme Court held that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorised

to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased, in accordance with the law of succession governing them. The Hon'ble Apex Court while resolving the issue had in uncertain term quoted that the nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession.

14. The learned Division Bench of this Court in the case of **Ati Razia Devi Vs. The State of Bihar & Ors. 2016(1) PLJR 835** while considering the dispute with regard to the liability of the State to pay Family pension held that "the very purpose of the nomination is to enable the State to meet its obligations and get a valid discharge in respect thereof. Once, the employee had nominated the other lady to receive the family pension, the State discharges its obligation lawfully by paying that lady i.e. the nominee. Now, if the appellant disputes this fact and claims to be the first lawfully wedded wife, and thus, in civil law, entitled to the family pension, then, it is for her to establish her right, title and interest in this regard in a court of competent jurisdiction and get an order to override the nomination made by the person/employee concerned. The nominee, in matters where the status and the right is disputed, is merely a trustee for the rightful owner thereof, but, of course, subject to the right of nominee to receive and give a valid discharge. Nomination by itself, it is well settled, does not

make the person the owner or the rightful recipient of the property, but holds it in trust for rightful and lawful recipient or person entitled therein."

15. On the similar line, in the case of **Shiv Shankar Arya Vs. The Union of India & Ors, since reported in 2016(2) PLJR 477**, the Division Bench of this Court has held that the nomination is only authority to receive payments or properties and give valid discharge to a person making payment. Nominee would not become an absolute owner upon the receipt of the properties, but is a trustee for the heirs.

16. Similarly, in the case of **Khushboo Gupta Vs. The Life Insurance Corporation Of India Through Executive Director & Ors., reported in 2019(4) PLJR 885** where a dispute has arisen on account of the fact that the deceased had nominated his mother as nominee and by virtue of that nomination, after death of the life assured she was claiming the entire insurance proceeds. The wife had a grievance that after obtaining the policy the deceased had solemnized marriage with the petitioner and thus she was claiming herself a legally wedded wife of the deceased life assured and is looking for 50% of the proceeds of the death claim."

14. Having gone through the rulings, afore-noted, it is evident that the very purpose of the nomination is to enable the State to meet its obligations and get a valid discharge in respect thereof. Once, the employee had nominated a person to receive

family pension, the State discharges its obligation lawfully by paying that person i.e. the nominee. However, only on account of the fact that a person being nominee receive benefits he/she would not become an absolute owner upon receipt thereof but is only a trustee for the heirs.

15. In the case in hand, admittedly, the respondent no.1 was made nominee by the erstwhile employee in the service-book; based upon which the Eastern Coal Field Limited discharged its obligation by making payment of death-cum-retiral benefits to her. The petitioner admittedly had approached this Court after getting succession certificate by a competent court much later in the year 2019; in the meanwhile, the respondent no.1, who had genuine grievance based upon the nomination in the service-book of the erstwhile employee received the terminal benefits. Nonetheless, the petitioner may have a valid claim over the amount received by her and it may be duly claimed by filing an appropriate suit.

16. So far the grievance of the petitioner that the family pension continued even after the order of this Court on 06.01.2020, also does not find merit consideration, as much earlier to the order, the entire payments have been made to the respondent no.1. Moreover, it has rightly been said the respondent no.1 had been getting family pension through CMPF, who has not even been made as party respondent.

17. In view of the settled position and the discussions made hereinabove, this court does not find any reason to interfere in the writ petition. Accordingly, the same stands dismissed. However, the petitioner shall be at liberty to take legal recourse as available under the law, if so advised.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17-07-2025
Transmission Date	