
(2019) 07 PAT CK 0086

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6344 Of 2018

Bihar State Central Bank Employee's Union

APPELLANT

Vs

State Of Bihar Through The Labour And Ors

RESPONDENT

Date of Decision : 09-07-2019

Acts Referred:

Citation : (2019) 07 PAT CK 0086

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Amit Pandey, Ajay Kr. Sinha, Sanjeev Kumar, Raghvendra Kumar

Final Decision : Disposed Off

Judgement

1. Nobody appears on behalf of the petitioner. Learned APP for the State has assisted the Court.

2. On 14.02.2019, nobody had appeared on behalf of the petitioner and the matter was adjourned. On 21.02.2019, on prayer made, the matter was adjourned. On 28.02.2019 also, on prayer made, the matter was adjourned. Thereafter, the matter admitted and the Court had directed the petitioner to pay Rs. 6,000/- per month to the opposite party no. 2, whereas, the order of the Court below was for paying Rs. 12,000/- per month which is under challenge in the present application.

3. The petitioner has moved the Court under Section 19(4) of the Family Courts Act, 1984, against the judgment and order dated 06.02.2018 passed by the Principal Judge, Family Court, Araria in Maintenance Case No. 338 of 2016, by which the petition filed by the opposite party no. 2, who is his wife, under Section 125 of the Code of Criminal Procedure, 1973 has been allowed granting Rs. 12,000/- per month as maintenance to her.

4. Learned APP submitted that the judgment of the Court below is well considered and based on the evidence adduced. It was submitted that during

evidence, three witnesses were examined on behalf of the opposite party no. 2 and four witnesses on behalf of the petitioner and their depositions have been considered by the Court, both with regard to the neglect and quantum of maintenance fixed. It was submitted that the Court has noticed that even the petitioner himself had admitted that he had purchased a truck and just because there was a loan of Rs. 25 lakhs, would not mean that the petitioner is not in a position to pay the amount to the wife moreso, as the cost of a truck runs into much more than Rs. 25 lakhs and it shows that the petitioner is earning sufficiently to meet the installments of the loan as only Rs. 25 lakhs remains for payment, which obviously is spread for over many years. It was submitted that the Court has also noticed the fact that the stand of the petitioner that the opposite party no. 2 was earning Rs. 1,000/- to Rs. 1,500/- per day was not supported by any cogent evidence brought on record.

5. Having considered the facts and circumstances of the case and submissions of learned APP and upon going through the judgment impugned, the Court finds that the same is well considered and based on materials on record. Further, in the facts and circumstances of the case, an amount of Rs. 12,000/- in favour of the opposite party no. 2 does not appear to be unreasonable or exorbitant.

6. Accordingly, for reasons aforesaid, the application stands dismissed.

7. However, as the Court had granted indulgence to the petitioner by allowing him to deposit only Rs. 6,000/- per month during the pendency of the present application, the liability to pay Rs. 12,000/- per month to the opposite party no. 2 in terms of the impugned judgment and order dated 06.02.2018 shall commence from the present month i.e., August, 2019.

8. Accordingly, the petitioner shall clear his up-to-date dues in terms of the earlier order of the Court at the rate of Rs. 6,000/- per month and thereafter, from the 10th of the next month, he shall be obliged to pay Rs. 12,000/- per month to the opposite party no. 2, i.e., from August, 2019 onwards.

9. The Lower Court Records be returned forthwith.