

(2023) 12 PAT CK 0013

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6790 Of 2023

Geeta Devi

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 04-12-2023

Acts Referred:

Citation : (2023) 12 PAT CK 0013

Hon'ble Judges : Harish Kumar, J

Bench : Single Bench

Advocate : Jitendra Kumar Giri, Babita Kumari

Final Decision : Disposed Of

Judgement

1. Learned counsel for the petitioner seeks permission to make the DIG, Koshi Range, Saharsa as a party respondent no. 5(i) in course of the day.
2. The permission is accorded.
3. Heard Mr. Jitendra Kumar Giri, learned counsel appearing on behalf of the petitioner and Mrs. Babita Kumari, learned AC to SC-1.
4. The husband of the petitioner, Ram Naresh Rai, who was working as a Constable in the Patna District Police died in harness on 27.01.1989 and as the son of the petitioner was only aged about 02 years, she submitted her application before the higher authorities to allow the appointment on compassionate ground to the younger brother of her husband, and finally the same has been accorded, who is respondent no. 6 in the present case.
5. It is to be noted that in course of time, when the respondent no. 6 has refused to maintain the petitioner, certain complaints were made leading to the dismissal of respondent no. 6.
6. On being aggrieved, the respondent no. 6 filed CWJC No. 15316 of 2001, which came to be disposed of on 22.11.2007, with a direction to the private

respondent no. 6 to ensure payment of 50 per cent of salary withdrawn by him to the petitioner.

7. In terms of the order of this Court in CWJC No. 15316 of 2001 passed on 22.11.2001, the petitioner started paying the half of the salary to the petitioner but, suddenly in the year 2018, the respondent no. 6 denied the same and, as such, the petitioner being a widow entirely dependent upon the monetary resources, as provided to her in terms of the order of this Court, left with no option but to file several representation before all the authorities, but to no avail. Hence, the present writ petition seeking a direction upon the respondent concerned to refrain from making the post retiral benefits as well as pension to the private respondent no. 6, who has acted in defiance of the order of this Court dated 22.11.2007 passed in CWJC No. 15316 of 2001 with further prayer to direct the State respondent to provide the petitioner with half portion of the retiral benefit and other admissible dues.

8. A counter affidavit has been filed on behalf of the Superintendent of Police, Saharsa. By referring to averments made therein, learned counsel for the State submitted that the respondent no. 6 on being reinstated in service, he was making payment of half of his salary to the petitioner, however, in course of time, he was transferred to Saharsa District Force, where he went on six days casual leave, but did not return to give his joining and thus, his salary was held up by the Saharsa District Order No. 832/2018. On inquiry, it was reported that the respondent no. 6 got bed-ridden and was suffering from other ailments. He applied for voluntary retirement from service on 19.03.2018 and when the same was not entertained, he also filed CWJC No. 2669 of 2019.

9. In the light of the order of a Bench of this Court, the application for V.R.S. was duly considered and finally he was granted V.R.S. with effect from 31.12.2022, vide Saharsa District Order No. 1679/2022.

10. It has further been averred on behalf of the official respondents that in terms of the order of this Court passed in favour of the petitioner for apportionment of salary of the respondent no. 6, a guideline was sought in the matter from the DIG, Koshi Range, Saharsa vide Memo No. 615 dated 06.04.2023 and in response thereto, the DIG, Koshi Range, Saharsa has directed under his Memo No. 2071/GS dated 23.09.2023 to wait for the final outcome passed in CWJC No. 2669 of 2019. It is next submitted that so far the earlier order dated 22.11.2007 in CWJC No. 15316 of 2001 is concerned, that was only with regard to the payment of half of the salary of respondent no. 6 in bank account of the petitioner. Now the respondent no. 6 has been superannuated with effect from 31.12.2022, and thus afresh determination is required.

11. In view of the submissions advanced on behalf of the parties and the dispute raised by filing the present writ petition, this Court deems it proper to relegate the matter to the DIG, Koshi Range, Saharsa to take an appropriate decision after giving opportunity of hearing to both the petitioner as well as respondent

no. 6 and after coming to an amicable settlement between the parties, pass a speaking order. It goes without saying that the petitioner is a widow of the erstwhile employee, after whose death the respondent no. 6 has been allowed the benefit of compassionate appointment thus, before passing any order the DIG, Koshi Range, Saharsa shall consider every aspect of the matter, including the order dated 22.11.2007 in CWJC No. 15316 of 2001 vis a vis the interest of ailing employee and his dependents. The petitioner is at liberty to file a proper representation before the newly added respondent no. 5(i), preferably within a period of four weeks from today. It is expected that the entire exercise shall be completed preferably within a period of ten weeks.

12. With the aforesaid observation, the present writ petition stands disposed of.