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IN THE HIGH COURT OF JUDICATURE AT PATNA

(MISCELLANIOUS JURISDICTION CASE)

M.J.C. NO. of 2013

Fulo Devi@Smt.Fulo DeviPetitioner.

VERSUS

The State of Bihar and othersOpposite Parties.

Sub:- Contempt Matter.

I N D E X

Sl. No.	Particulars	Pages
1.	An application under sections 11& 12 of Contempt of Court and read with Article 215 of the Constitution of India.	1 -4
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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. / of 2013

(Arising out of C.W.J.C. No.5273/06 disposed of on 16.10.2012)

In the matter of an application under section 11
and 12 of the Contempt of Court Act read with
Article 215 of the Constitution of India.

A N D

In the matter of

Fulo Devi@Smt.Fulo Devi,wife of Late Kapileshwar Arya, residing at Guljarbagh,ward no.
20, Madhepura,P.S+District Madhepura.Petitioner

Vrs.

1. The State of Bihar,
2. Sri Ajay Kr. Choudhary,The Director, Primary Education, Governemnt of Bihar, Patna.
3. Sri Milendra Kr.Sinha,The District Education Officer, Madhepura, District - Madhepura
- 4.Sri Amirika Pd. The District Programme Officer (Establishment), District - Madhepura.
5. The Accountant General, Governemnt of Bihar, Patna.
- 6.Sri Gulam Mufataba Ansari, The Treasure Officer Madhepura. ...Opposite Parties.

To

The Hon'ble Ms.Justice Rekha M. Doshit, the Chief Justice of the High Court of
Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble application on behalf
of petitioner above named.

Most Respectfully Sheweth:-

1. That this application is being filed for issuance of rule of contempt against the Opp. Parties for suitable convict them for disobeying the order dated 16.10.12 passed in C.W.J.C. 5273/12 by Hon'ble Mr. Justice Ramesh Kumar Datta and further issue specific direction to undue the breach of the order dated 16.10.12.

A true/photo copy of the order dt. 16.10.12 is
annexed as Annexure-1 to this application.

2. That connected writ connected writ application is being filed for issuance of writ in the nature of certiorari for quashing letter memo 666 dt.23.11.11 issued by respondent no.4 by which rejected the claim of petitioner/Appellant as she is being 2nd wife of her husband ,whenever 1st wife has already been died on 04.08.08 thus since she is entitled for family pension and further issued direction to the respondents to grant family pension to the her Minor son,since date of death of her husband i.e.on11.07.04,in the light of the goverment circular and further issued direction to the respondents to pay the arrear of family pension to the petitioner/Appellant alongwith 18% interest per annum to till date of the full and final payment and further give other&others legal consequential benefit at tached to the post .

3. That the connected writ application was heard on 16.10.12 and this Hon'ble Court has been pleased to dispose of the connected writ application with a direction to the respondents to ensure that the family pension paid to the dependents of the deceased employe including the son of the petitioner .

4. That in view of direction by this Hon'ble High Court, petitioner filed application , thereafter A.G issued a letter dt. 18.12.12 to Treasure Officer Madhepura , thereafter is sued a letter dt. 16.01.13 to Chief Manager , State Bank of India Madhepura, regarding Payment of family pension to Sri Anant Kumar , son of petitioner but till today no payment made to the Sri Anant Kumar without any clausable reason

A true/photo copy of letter dt. 18.12.12 & 16.01.13
is annexed as Annexure-2 & 3 to this application.

5. That the opp.parties has no regard the order passed by this Hon'ble Court and they are deliberetly violating the order of this Hon'ble Court.

6. That on the above facts and circumstances of the case, petitioner deserve relief by this Hon'ble Court.

7. That petitioner has not move before this Hon'ble Court any time earlier for the relief sought for in this application except and otherwise mentioned in this application.

It is, therefore, prayed that your lordships may graciously be pleased to issue notice to show cause as to why the contempt be not initiated against the opp.parties for violation of the order of this Hon'ble Court and after cause being shown if any, and after hearing the parties pass such other order/orders as your lordships may deem fit and proper in the facts and circumstances of the case.

And for this the petitioner shall ever pray.

AFFIDAVIT

I, Fulo Devi@Smt.Fulo Devi,aged about 64 years, wife of Late Kapileshwar Arya, residing at Guljarbagh,ward no.20, Madhepura,P.S+District Madhepura,do hereby solemnly affirm and state as follows:-

1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That I have gone through the contents of this writ application and have fully understood the same. The statements made in paragraph are true to my knowledge and information derived from the records of the case and rest are by way of submission before this hon'ble Court.
3. That the annexures are true/photo copies of the originals.

Amrinder 5

DEPARTMENT OF POST **भारत** STAMP DUTY
BIHAR CIRCLE 00000
Patna High Court
AUTH NO. 31E:5 DT. 16/12/2008 372403 BIHAR
INDIA

Patna High Court CWJC No.

0037 11613991
0037 11613991

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5273 of 2012.

1. Fulo Devi @ Smt. Fulo Devi W/O Late Kapileshwar Arya Residing At
Guljarbagh, Ward No. 20, Madhepura, P.S.+District- Madhepura

... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government Bihar, Patna
3. The District Education Officer, Madhepura, District- Madhepura
4. The District Programme Officer (Establishment), Madhepura, District- Madhepura
5. The Accountant General, Government Bihar, Patna

... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sharad Chand Mishra
 For the State : Mr. Anil Kumar Jha, J.C. to S.14
 For Accountant General : Mrs. Namita Mishra

CORAM: HONOURABLE JUDGE JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

7 16-10-2012 ... Heard learned counsel for the petitioner and learned
counsel for the State and for the Accountant General, Bihar.

The petitioner is aggrieved by the order dated 23.11.2011
 passed by the District Education Officer, Madhepura, by which he
 has rejected the claim of the petitioner for payment of family
 pension. It is stated in the said order that the petitioner being the
 second wife and having married to the deceased employee while the
 first wife was still alive is not entitled to payment of any family
 pension in terms of the Finance Department letter No.10059 dated
 6.9.1996. It is, however, stated in the said order that the case of the
 minor son of the petitioner would be considered in terms of the

COPYING WRIT

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letter dated 6.9.1996 since the facts are not in dispute.

It is also not disputed that the deceased employee after his retirement on 31.1.1994 had received all the post-retiral dues and subsequently died on 11.7.2004. His first wife Das Devi died on 4.8.2008.

In view of the provisions of the letter dated 6.9.1996, learned counsel for the petitioner does not press the application for quashing the order dated 23.11.2011 to the extent that the claim of the petitioner with respect to family pension has been denied. However, he submits that the respondents may be directed to ensure that the family pension in terms of the letter dated 6.9.1996 is paid to the minor son of the petitioner.

In the above facts and circumstances, the writ application is disposed of with a direction to the respondents to ensure that the family pension is paid to the dependents of the deceased employee including the son of the petitioner in terms of the letter dated 6.9.1996 of the Finance Department within a period of four months from today and in case there is a dispute among the claimants as to share in the family pension, the parties must be given an opportunity of being heard in the matter before taking a final decision.

V.P.Sinha/-

scf
(Ramesh Kumar Datta, J)

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A. Adar
02/11/13
99/21922

NOTIFIED TO BE TRUE PHOTO COPY
02/11/2012
For Joint Registrar (J)
Patna High Court
Enacted with Act 1 of 1978

Handwritten signature

Handwritten signature

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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5273 of 2012

1. Fulo Devi @ Smt. Fulo Devi W/O Late Kapileshwar Arya Residing At Guljarbagh, Ward No. 20, Madhepura, P.S.+District- Madhepura

.... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government Of Bihar, Patna
3. The District Education Officer, Madhepura, District- Madhepura
4. The District Programme Officer (Establishment), Madhepura, District- Madhepura
5. The Accountant General, Government Of Bihar, Patna

.... .. Respondent/s

WEB COPY
OFFICIAL

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra
For the State : Mr. Shailendra Kumar Jha, J.C. to S.14
For Accountant General : Mrs. Namrata Mishra

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

7 16-10-2012 Heard learned counsel for the petitioner and learned counsels for the State and for the Accountant General, Bihar.

The petitioner is aggrieved by the order dated 23.11.2011 passed by the District Education Officer, Madhepura, by which he has rejected the claim of the petitioner for payment of family pension. It is stated in the said order that the petitioner being the second wife and having married to the deceased employee while the first wife was still alive is not entitled to payment of any family pension in terms of the Finance Department letter No.10059 dated 6.9.1996. It is, however, stated in the said order that the case of the minor son of the petitioner would be considered in terms of the

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letter dated 6.9.1996 since the facts are not in dispute.

It is also not disputed that the deceased employee after his retirement on 31.1.1994 had received all the post retiral dues and subsequently died on 11.7.2004. His first wife, Dahoravi Devi died on 4.8.2008.

In view of the provisions of the letter dated 6.9.1996, learned counsel for the petitioner does not press the application for quashing the order dated 23.11.2011 to the extent that the claim of the petitioner with respect to family pension has been denied. However, he submits that the respondents may be directed to ensure that the family pension in terms of the letter dated 6.9.1996 is paid to the minor son of the petitioner.

In the above facts and circumstances, the writ application is disposed of with a direction to the respondents to ensure that the family pension is paid to the dependents of the deceased employee including the son of the petitioner in terms of the letter dated 6.9.1996 of the Finance Department within a period of four months from today and in case there is a dispute among the claimants as to the share in the family pension, the parties must be given an opportunity of being heard in the matter before taking a final decision.

V.P.Sinha/-

(Ramesh Kumar Datta, J)



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महालेखाकार (ले० एवं ह०) का कार्यालय, बिहार, पटना
OFFICE OF THE ACCOUNTANT GENERAL (A&E), BIHAR, PATNA

पत्रांक

दिनांक
Dated

सेवा में,

कोषागार पदाधिकारी
मधेपुरा।

विषय:- सी०डब्लू०जे०सी० संख्या-5273/2012 श्रीमती फूलो देवी उर्फ श्रीमती फूलो देवी द्वितीय पत्नी स्व० कपिलेश्वर आर्य धारक पी०पी०ओ० संख्या-227478 का नवालिंग पुत्र के पारिवारिक पेंशन के संबंध में।

महाशय,

उपर्युक्त विषय के संबंध में कहना है कि इस कार्यालय के पत्रांक पेन-14-सा०-2378-2380 दिनांक-27.2.2012, 501-502 दिनांक-4.7.2012 के द्वारा दुसरी पत्नी के पुत्र श्री अनन्त कुमार को नियमानुसार आवश्यक कागजात प्राप्त कर भुगतान हेतु निर्देश दिया गया था परंतु जवाब अबतक अप्राप्त है।

अतः श्री अनन्त कुमार पुत्र श्रीमती फूलो देवी (द्वितीय पत्नी) स्व० कपिलेश्वर आर्य धारक पी०पी०ओ० संख्या-227478 का नवालिंग पारिवारिक पेंशन (आधा भाग) का भुगतान अतिशिघ्र करने का व्यवस्था किया जाय तथा इसकी सूचना इस कार्यालय को भी दी जाय। मामला न्यायालय से संबंधित है। अतः भुगतान की स्थिति से अविलंब इस कार्यालय को सूचित किया जाय।

भवदीय

वरिय लेखा अधिकारी, बिहार, पटना

ज्ञापांक पेन-14-सा०-1251

दिनांक-18-12-2012

प्रतिलिपि :-

1. जिला कार्यक्रम पदाधिकारी, मधेपुरा।
आपसे आग्रह है कि आप अपने स्तर से श्री अनन्त कुमार पुत्र फूलो देवी (द्वितीय पत्नी) पत्नी स्व० कपिलेश्वर आर्य को नवालिंग पारिवारिक पेंशन कोषागार से किया जा रहा है अथवा नहीं वस्तुस्थिति से जानकारी प्राप्त कर सूचित करने का कृपा करें क्योंकि न्यायालय में आपको भी प्रतिवादी बनाया गया है।
2. श्री अनन्त कुमार पुत्र फूलो देवी,
(द्वितीय पत्नी) स्व० कपिलेश्वर आर्य
महल्ला-गुलजारबाग, वार्ड नं०-20
थाना-मधेपुरा, जिला-मधेपुरा।

सहायक लेखा अधिकारी

पत्रांक..... 35

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प्रेषक,

कोषागार पदाधिकारी
मधेपुरा।

सेवा में,

मुख्य प्रबंधक
भारतीय स्टेट बैंक
मधेपुरा।

मधेपुरा, दिनांक..... 16/06/12

विषय :- दोरखी देवी प्रथम पत्नी स्व० कपिलेश्वर आर्य की मृत्यु 04/08/2008 कि हो जाने के कारण श्रीमती फुलो देवी द्वितीय पत्नी स्व० कपिलेश्वर आर्य से उत्पन्न नावालिंग पुत्र श्री अनन्त कुमार को पारिवारिक पेंशन का आधा भाग पारिवारिक पेंशन भुगतान के संबंध में।

प्रसंग :- इस कार्यालय का पत्रांक 515, दिनांक 16/06/2012

महाशय ,

उपर्युक्त विषय के संबंध में कहना है कि इस कार्यालय के पत्रांक 515, दिनांक 16/06/2012 के द्वारा दुसरी पत्नी के नावालिंग पुत्र श्री अनन्त कुमार को पारिवारिक पेंशन का आधा भाग दिनांक 05/08/2008 से भुगतान करने का अनुरोध किया गया था।

कृपया सूचित किया जाय कि श्री अनन्त कुमार को पारिवारिक पेंशन का भुगतान किया गया है या नहीं यदि नहीं तो क्यों? चूंकि यह मामला न्यायालय से संबंधित है।

विश्वासभाजन

कोषागार पदाधिकारी
मधेपुरा।

16/06/12