

Deepti Pandey Vs. the State of Bihar and ors

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Court : Patna

Decided On : May-11-2012

Appellant : Deepti Pandey

Respondent : The State of Bihar and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Letters Patent Appeal
No.1706 of 2011 In Civil Writ Jurisdiction Case No. 5216 of 2008
===== Deepti
Pandey D/o Late Manju Jaiswal @ Manju Kumari Jaiswal C/o Sri Vidya Nand
Tiwari, R/o Mohalla- Yogia Toli (Yarpur), P.O.- G.P.O., Patna, Police Station -
Gardanibagh, District- Patna. Petitioner-Appellant Versus 1. The State of
Bihar through Chief Secretary, Bihar, Patna 2. The Chairman, Bihar Legislative
Council, Patna 3. The Secretary, Bihar Legislative Council, Patna 4. The Deputy
Secretary, Bihar Legislative Council, Patna 5. The Accountant General, Bihar,
Patna Respondents-Respondents
=====

Appearance : For the Appellant : Mr. K.B.Nath, Advocate Mr. Arun Kumar Pandey,
Advocate For the Respondent State: Mr. Prabhat Kumar Singh, A.C. to G.A.-1 For
the Legislative Council : Mr. Kaushal Kumar Jha, Advocate For the Accountant
General: Mr. J.P. Karn, Senior Advocate
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CORAM:
HONOURABLE THE CHIEF JUSTICE and HONOURABLE MR. JUSTICE
BIRENDRA PRASAD VERMA ORAL ORDER (Per: HONOURABLE THE CHIEF

JUSTICE) 3. 11-01-2012 With the consent of the learned advocates, the Appeal 2 Patna High Court LPA No.1706 of 2011 (3) dt.11-01-2012 2/4 is heard and decided today. Feeling aggrieved by the judgment and order dated 20th September 2011 passed by the learned single Judge in above C.W.J.C. No. 5216 of 2008, the writ petitioner has preferred this Appeal under Clause 10 of the Letters Patent. The writ petitioner is a young lady. She claims to have been adopted by one Manju Kumari @ Manju Kumari Jaiswal, an Assistant in the Bihar Legislative Council (hereinafter to be referred to as the Council). The said Manju Kumari died on 5th August 2006. On the death of the said Manju Kumari, the appellant claimed remittance of death-cum-retirement benefits. However, two others, namely, one Bashishth Choudhary, the father of late Manju Kumari and one Shreya Suman also lodged claim for such terminal benefits. In view of the rival claims made in respect of the terminal benefits of late Manju Kumari, the Council refused to pay the terminal benefits to any of them. The appellant was asked to produce a succession certificate. Feeling aggrieved the appellant filed above C.W.J.C. No. 5216 of 2008. In view of the rival claims made before the Council, the learned single Judge has held that the Council was justified in directing the appellant to produce a succession certificate. Accordingly, the writ petition has been dismissed. Therefore, this Appeal. Learned advocate Mr. K.B. Nath has appeared for the appellant. Though, he asserts that the appellant was adopted by the late Manju Kumari, he admits that the formal Deed of Adoption was not drawn. He has relied upon the Bihar Government, Government Servants Compulsory Group Insurance Rules

3. Patna High Court LPA No.1706 of 2011 (3) dt.11-01-2012 3/4 framed in exercise of power conferred by the proviso to Article 309 of the Constitution. He has submitted that Rule 6 of the said Rules empowers the Government servant to make nomination in respect of the Group Insurance. In exercise of the said power the late Manju Kumari had made nomination in favour of the appellant in respect of the Group Insurance. Mr. Nath has also relied upon Rule 12 of the said Rules. Rule 12 makes provision in case of death of a Government servant while in service. It provides that in case of a Government servant dying while in service a sum of Rs. 12,000/- be paid to the nominee in one lump sum. In case no legal nomination is made, the amount be paid to the nominee in respect of the provident

Fund. In case of no nomination made for the purpose of Provident Fund, the Insurance money be distributed equally amongst the heirs of the deceased Government Servant. In the submission of Mr. Nath the appellant is, therefore, entitled to at least the amount of Group Insurance. Learned advocate Mr. Kaushal Kumar Jha has appeared for the Council. He has contested the Appeal. He has submitted that there being rival claims in respect of the terminal benefits of the late Manju Kumari, the Council has rightly directed the parties to obtain succession certificate. Mr. Jha admits that there is no embargo under the Rules in respect of the person who can be nominated. We fail to comprehend the stance adopted by the Council. The statutory Rules permit the Government servant to make nomination in respect of Group Insurance amount. In exercise of the said power the late Manju Kumari had admittedly made nomination in favour of the present appellant. The nomination made by the late Manju Kumari is binding to the 4 Patna High Court LPA No.1706 of 2011 (3) dt.11-01-2012 4/4 Council. In our opinion, the Council is not justified in refusing to pay the Group Insurance amount to the nominee of the late Manju Kumari. Whatever be the internal family dispute the nomination is binding to the Council. Rule 12 of the aforesaid Rules also enjoins the State Government to pay a sum of Rs.12,000/- to the nominee of the Government servant, if such Government servant dies while in service. Hence in our view, the Council is also statutorily obliged to pay a lump sum amount of Rs.12,000/- to the appellant, she being the nominee of the late Manju Kumari for the purpose of Group Insurance. For the aforesaid reason, we partly allow this Appeal. The respondent Bihar Legislative Council is directed to pay Rs.12,000/- of Group Insurance to the present appellant. As the Bihar Legislative Council has illegally detained the aforesaid sum of Rs.12,000/- payable to the appellant on the death of the late Manju Kumari, we direct that the Bihar Legislative Council will also pay interest over the aforesaid sum of Rs.12,000/- at the rate of 6 per cent per annum for the period from 1st September 2006 till the date of payment under this order. The aforesaid sum of Rs.12,000/- and the interest thereon will be paid within six weeks from today. The impugned order of the learned single Judge will stand modified to the above extent. (R.M. Doshit, CJ) (Birendra Prasad Verma, J) Pawan/-