

THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) 773 of 2010

Sumitra Devi W/o Late Shiv Shankar Pandey
R/o village Patharighat, P.O. Bhitaha, Betiya P.S. Bairiya Anchal
Betia District West Champaran, Purnea, Bihar

..... Petitioner

Vs.

1. The State of Jharkhand
2. Director General of Police, Jharkhand, Ranchi
3. Dy. Inspector General of Police, Personnel, Jharkhand
4. Superintendent of Police, Sahebganj, Jharkhand

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the petitioner	: Dr.S.N.Pathak, Sr. Advocate
For the respondents	: J.C. to A.G.

08/Dated: 30th January, 2015

Petitioner has approached this Court for quashing order dated 18.3.2009 passed by Deputy Inspector General of Police whereby and whereunder claim of the petitioner for appointment of her son on compassionate ground has been rejected and for release of retiral dues.

Heard the parties and perused the documents on record.

It has been submitted on behalf of petitioner that the husband of the petitioner had joined his service after having been selected by the Selection Board in March, 1996 and thereafter, he has been appointed and started discharging his duty but after thirteen years of continuous services he was terminated by the superintendent of police, Sahebganj. The said order was challenged by the husband of the petitioner vide W.P. (S) No. 4191 of 2006 and the order of termination was quashed. It has further been submitted on behalf of petitioner that immediately after the order passed by this Court in W.P.(S) no. 4191 of 2006 the status of the husband of petitioner from the dismissed employee has been changed and as such, he will be deemed to have been in service. Thereafter, petitioner died on 29.1.2009 as per the death certificate annexed as Annexure 3 to the writ petition.

It has further been submitted that after death of husband of

the petitioner she made an application for appointment of her son on compassionate ground in terms of the scheme of the Government but the same has been denied and rejected vide order dated 19.3.2009 (Annexure-6 to the writ petition) on the ground that the husband of the petitioner died in course of charge of dismissal and as such, there is no case for consideration for appointment on compassionate ground.

Further submissions advanced on behalf of petitioner that the moment when the order of dismissal has been quashed the status of husband of the petitioner from dismissed employee has been changed and he will be deemed to have been in service as such, the dependent of the husband of the petitioner is entitled to be considered for appointment on compassionate ground. It has also been submitted that the reason taken by the respondents in the impugned order dated 19.3.2009 is absolutely incorrect and improper and contrary to the direction passed by this Court.

On the other hand learned counsel appearing on behalf of respondents has submitted that the respondents have preferred an Appeal being Letters Patent Appeal No. 160 of 2009 against order passed in W.P.(S) no. 4191 of 2006 hence, it has been submitted on behalf of respondents that the petitioner will treated to be dismissed because the order of this Court passed in W.P.(S) no. 4191 of 2006 has not attained its finality.

Further submission has been made by the respondents while referring paragraph no.6 to the counter-affidavit that the petitioner is claiming herself the wife of late deceased constable for getting benefit of pension and getting her son to be appointed on compassionate ground but, the name of the petitioner is not mentioned in the service book of the deceased employee as his legal heir while the name of one Geeta Devi is in service book of the deceased employee.

Heard the parties and perused the documents on record.

It appears that the order impugned has been passed on 19.3.2009 treating the husband of the petitioner as dismissed

employee. On perusal of order passed in W.P.(S) no. 4191 of 2006 by which order of termination has been quashed it appears that admittedly the husband of the petitioner was dismissed by the order passed by the respondent but, when it has been quashed by the order passed in W.P.(S) no. 4191 of 2006 it cannot be said that the order of dismissal is in operation rather the petitioner will be deemed to have been in service though no formal order has been passed by the respondent state but, if the respondent has not passed any formal order the order passed by this Court can not be said to be of no value.

The submissions of the learned counsel appearing on behalf of respondents that an appeal has been preferred and in view of the fact that the order passed by this Court in W.P.(S) no.4191 of 2006 since has not got its finality the status of the petitioner from the dismissed employee will not revive. I find that this argument has got no force because it has nowhere come in the counter-affidavit that the order passed in W.P.(S) 4191 of 2006 has ever been stayed by the higher court and in absence of any interim order staying the operation of W.P.(S) no. 4191 of 2006 the arguments advanced on behalf of respondents cannot be said to be justified and since the husband of the petitioner has died on 29.7.2009 after the order passed in W.P.(S) 4191 of 2006 i.e. on 9.1.2009 and subsequently order passed in L.P.A. no.160 of 2009 i.e. on 28.8.2009 which has also been dismissed. In that view of the matter the impugned order dated 9.3.2009 is not sustainable. Accordingly, it is set aside.

Matter is remanded before the authority concerned to pass afresh order after hearing the parties and looking into rival claim among the family member, if any and take a decision regarding appointment on compassionate ground and release of death cum retiral benefits in accordance with law within eight weeks from the date of receipt of copy of this order.

(Sujit Narayan Prasad, J.)