

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2648 of 2015

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Most. Raso Devi wife of Late Ram Pukar Yadav Resident of village and
P.O. Rani Sakarpur, Police Station - Khagaria, District - Khagaria
..... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Khagaria
3. The Superintendent of Police, Khagaria
4. The Officer - in - Charge, Gangaur Out Post, P.S. Khagaria, District
Khagaria
5. The Circle officer, Khagaria
6. The Treasury Officer, Khagaria
7. The Accountant General, Bihar, Patna

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Ojha, Advocate.
For the Respondent/s : Mr. Gautam Bose, AAG 8
Mrs. Shail Kumari, AC to AAG 8
For the A.G. : Mr. L.P. K.Rajgrihar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 23-02-2015 Heard learned counsel for the parties as with regard to

the following relief prayed in this writ application:

"1. That the present writ petition is being filed on behalf of the petitioner above named who happens to be the widow of Late Ram Pukar Yadav who was posted as a Chaukidar (Chaukidar No. 11/7) posted in Gangaur Out Post in the Khagaria Police Station for the payment of his entire post retiral dues as well as the family pension to which the petitioner is the entitled by virtue of being the wife of the deceased Chaukidar."

2. Mr. Ajit Kumar Ojha, learned counsel for the petitioner, has submitted that the husband of the petitioner became a Chaukidar in the Government service with effect from 01.01.1990 and had continued in service up to 31.10.1999 and therefore, he had completed a period of 09 years 10 months. He

has also submitted that the widow has not been given family pension though the husband of the petitioner was a Government servant and had completed almost 10 years of the qualifying service.

3. Having regard to the aforementioned submission, the first and foremost question would be that if the husband of the petitioner had died on 31.10.1999 and did not or could not receive the pension and other retirement benefit as a Government servant in the next 15 years, how could the petitioner alone become entitled for grant of family pension inasmuch as it is well settled that the family pension can only be paid to a person whose husband or wife, as the case may be, has been granted pension after retirement. There is nothing on record at least in this writ application to show that the husband of the petitioner was granted pension and in fact, now Mr. Ojha wants to this Court to believe that if the husband of the petitioner was denied his legitimate amount of retirement benefit including the monthly pension, such claim can also be put forward by the widow while pressing for grant of family pension and other dues of her husband.

4. This Court however in absence of relevant information at present is not in a position to accept the claim of the petitioner but then keeping in view of the fact that the petitioner is

widow it would direct the concerned authorities including Respondents to consider the grievance of the petitioner and take a decision within a period of three months from the date of receipt of a copy of this order.

5. It goes without saying that if the husband of the petitioner had completed 09 years 10 months of service i.e. only two months short of the prescribed minimum period for grant of pension, the competent authority shall also consider as with regard to grant of relaxation of the period of two months so that the widow at least may get the amount of family pension even if the husband of the petitioner was not paid amount of pension.

6. Be that as it may, the respondents are directed to take a final decision and must communicate the same to the petitioner within a period of three months from the date of receipt of a copy of this order and if any, amount is found admissible and payable to the petitioner, the same also must be paid to her within one month from the date of such order if passed by the competent authority.

7. With the aforementioned observation and direction, this writ application is disposed of.

Sujit/-

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(Mihir Kumar Jha, J)