

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13210 of 2007

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Mohammad Ayub

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. O.P.Agrawal

For the Respondent/s : Mr. (Gp6)
 Mr. Partha Sarthy

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

21 29-07-2015 Heard learned counsel for the petitioner and learned counsel appearing for the Nagar Parishad.

The petitioner is the husband of deceased wife Amna Khatoon who died on 18.12.2006 while working as Sanitary Worker under Barh Nagar Parishad, Barh.

The petitioner prays for payment of family pension, death-cum-retiral dues, leave encashment, Death cum Retirement Gratuity, Provident Fund, payment of salary for last 48 months and interest on delayed payment.

In course of hearing three supplementary counter affidavits have been filed on behalf of the Nagar Parishad. In paragraph 4 of the supplementary counter affidavit filed on behalf of Barh Nagar Parishad, it has been stated that leave encashment to the tune of Rs.24,4680/-, gratuity to the tune of Rs.11,275/- and

Provident Fund to the tune of Rs.54,280/- has been paid. The difference of salary for 48 months from January, 2003 to December, 2006 was recalculated as Rs.76,343.00 which too has been paid along with Provident Fund dues of Rs.31,032/-, totaling a sum of Rs.1,07,375/- by cheque no.AO80122 dated 11.5.2013.

The petitioner submits that the service of deceased Amna Khatoon was pensionable and as such on her death, he is entitled to family pension.

Mr. Parthasarthy, learned counsel appearing for the Barh Nagar Parishad countering the submissions states that pension is not payable as the deceased Amna Khatoon did not exercise her option in writing in the prescribed form as contemplated under Rule 4 of Chapter 1 of the Bihar Municipal Officers and Servants Pension Rules, 1987.

I find that the petitioner has not produced any material on record to demonstrate even prima facie that the deceased wife Amna Khatoon applied for pension. As such, it is difficult to accept the submission at this juncture in view of categorical denial by the respondents that the deceased wife of the petitioner had given option for pension.

The petitioner submits that still some salary dues of the deceased wife Amna Khatoon remains to be paid.

In my view, if the petitioner files a representation with making specific reference of the period she has not been paid, the Executive Officer, Barh Nagar Parishad would look into their record and if any dues is found payable to deceased Amna Khatoon, the same would be paid to the petitioner expeditiously.

With the aforesaid observations and directions, this writ application stands disposed of.

(Samarendra Pratap Singh, J)

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