

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5368 of 2015

=====

Zeba Khatoon wife of late Md. Anwar Alam, resident of village- Channi,
Block + Police-Station Routa, District Purnea

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Human Resource Development, Government of Bihar, Patna.
2. The Director (Secondary Education) Government of Bihar, Bihar Secondary Education Office, Budh Marge, Patna.
3. The Deputy Director (Secondary Education), Government of Bihar.
4. The District Education Officer, Purnea, District Purnea.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Md. Qumrul Hoda, Adv.

For the Respondent/s : Mr. Prashant Pratap, (GP6)

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 22-06-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application

reads as follows:-

"---- to pay the Family pension and other benefits to the petitioner who is the widow of late Md. Anwar Alam who was Assistant teacher on Urdu post at project Kanya Uchcha Vidyalaya Barhara, Kothi, Purnea, District Purnea and died during service and other consequential benefit in the circumstances set forth below."

3. Learned counsel for the petitioner submits that it is really unfortunate for the petitioner to state before this Court that despite the death of her husband way back on 29.6.2009, the petitioner has not been paid her family pension.



4. In this case, a counter affidavit has been filed wherein it has been explained that the petitioner was actually working as a Urdu Teacher in privately managed Project Girl's High School, Barhara Khothi in the district of Purnea and after the government had decided to take-over the liabilities of the project school, the claim of the husband of the petitioner, namely, Md. Anwar Alam was rejected by an order dated 22.7.2008 on the ground that there was no sanctioned post of Urdu Teacher in the staffing pattern of project school.

5. It has also been explained that only subsequently that the Government had decided to include the post of Urdu Teacher within the sanctioned post and the services of the husband of the petitioner was sought to be approved along with other teachers by order dated 29.3.2010 with a clear rider that such services shall be approved with effect from 1.1.1989 or 25.01.2000 on getting a report of continuous work. The respondents have further explained that the District Magistrate, Purnea vide letter no. 722 dated 13.04.2013 had sent a report with regard to continuous working of teaching and non-teaching staff of the school but, the name of the husband of the petitioner, namely, Md. Anawar Alam was not included and, as such, vide memo no.49 dated 4.2.2015, the services of other teaching and non-

teaching staffs were approved with retrospective effect but the case of the petitioner was kept pending.

6. The respondents have now come out to say that only on getting the copy of the writ application filed by this petitioner, when it was realized that the husband of the petitioner had died on 29.6.2009 much before the approval of the service was given by the aforesaid order and as such the steps were taken for obtaining continuous working report of the deceased husband of the petitioner by entrusting an enquiry to the Regional Deputy Director of Education vide letter no. 165 dated 5.6.2015. It has also been stated in the counter affidavit that the Regional Deputy Director of Education, Purnea vide his letter no. 79 dated 17.6.2015 has sent a report regarding continuous working of the petitioner and now the matter is being examined in the Department. To that extent, paragraph nos. 5, 6 & 7 of the counter affidavit being relevant is quoted herein below:-

- "5. That on getting the copy of the writ petition filed by the petitioner, it revealed that the husband of the petitioner had died on 29.06.09 i.e. much before the approval of his services was given. After acknowledging the aforesaid fact, the Regional Deputy Director of Education was directed to send the necessary report regarding the continues working of the late husband of the petitioner vide letter no. 165, dated 05.06.2015.
6. That, the Regional Deputy Director of Education,



Purnea Division, Purnea vide his letter no. 79, dated 17.06.15 has sent the report regarding the working of the petitioner. On receipt of the aforesaid report, the matter is being examined in the department. In this regard, it is submitted that it will take some time in taking the final decision regarding the approval of services of late Anawar Alam. As soon as the necessary order of the Government is obtained in the matter of approval of late Alam with retrospective, the necessary order shall be issued and thereafter necessary steps shall be initiated by the competent authority for the settlement of death-cum retiral benefit as well the fixation of family Pension of the petitioner.

7. *That it is therefore, prayed at least two months time may be granted for the settlement of the claim of the petitioner and do the needful in this case."*

7. Thus, from the aforesaid stand taken by the respondents, it becomes very clear that till now the final approval of the services of the husband of the petitioner has not been made and, as such, the claim of family pension of the petitioner is premature. Nonetheless, as the respondents themselves have sought two months' time for settlement of the claim of the petitioner, this writ application is disposed of with a direction to the respondents to ensure that a final decision with regard to grant of family pension to the petitioner must be taken within a period of two months from the date of receipt of this order and if any amount is found admissible and payable to the petitioner on the

head of family pension, its arrear and current amount also must be paid to the petitioner within next two months from the date such order passed by the competent authority.

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

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--