

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3392 of 2015**

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Most. Rinku Devi. Wife of Late Baliram Mistri. Resident of village - Sikahar, P.O.-  
Baragandhar, P.S.- Mufassil, District - Gaya.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Public Health & Engineering Department Bisesavraiya Bhawan Beli Road Patna.
3. The Engineering in Chief, Public Health & Engineering Department Bisesavraiya Bhawan Beli Road Patna.
4. The Super-tending Engineer P.H.E.D. Mechanical, Veterinary College Campus, Patna.
5. The Executive Engineer, P.H.E.D. Mechanical, Sasaram.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Gopal Govind Mishra, Adv.

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG14

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**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**

**ORAL JUDGMENT**

**Date: 09-03-2015**

Heard learned counsel for the parties as with regard to the  
following prayer made in this writ application:-

- "1. ----- directions for commanding the respondent authorities  
to pay the retirement cum death benefits of the husband of  
the petitioner which is inter alia as follows-
- a. The Amount of G.P.F.
  - b. The Amount of gratuity.
  - c. The Amount of leave encashment.
  - d. The Amount of G.S.S.
  - e. The payment of family pension and fixation of family  
pension and arrear of family pension."

Learned counsel for the petitioner submits that the husband of  
the petitioner was an employee of the Public Health Engineering



Department (in short 'P.H.E.D.') and was working in the mechanical division at Sasaram when he had died in harness on 31.1.2013. He explains that the communication of the Assistant Engineer Mechanical of the P.H.E.D. dated 15.7.2004 will support the case of the petitioner as with regard to her husband being a regular employee inasmuch as he along with others were recommended for opening of the bank account and thus the Government is liable to pay death cum retirement benefit to the petitioner. He has also submitted that a representation filed by the petitioner to the Executive Engineer of the P.H.E.D., Sasaram dated 29.8.2013 has not been disposed of as yet.

Learned counsel for the State, on the other hand, has submitted that neither the letter dated 15.7.2004 nor the identity card produced by the petitioner as contained in Annexure-2 can make out any case of the petitioner with regard to her husband being entitled to pension under the Bihar Pension Rules.

In the considered opinion of this Court, the petitioner has not given any details with regard to appointment of her husband. It is not clear as to whether on 21.3.1983, the husband of the petitioner was engaged on muster roll basis or work charge basis or on regular basis. It is again not clear that if the husband of the petitioner was employed on 21.3.1983, why his bank account was sought to be opened only on 15.7.2004. Happen it be that the petitioner's husband was either



brought in work charge establishment or regularized in service only in the year 2004, he cannot be even entitled for payment of retirement benefit specially pension inasmuch as work charge employee is not entitled to pension and a regular employee also requires a minimum period of ten years service as qualifying service to earlier pension.

All these things however are matter of speculation and this Court atleast would find no material on record produced by the petitioner which would establish the claim of the petitioner.

In such circumstances, this Court can only direct the respondent no.2 to examine the claim of the petitioner for payment of death cum retirement benefit as may be admissible to the petitioner on account of premature death of her husband, namely, Late Baliram Mistri.

In order to expedite the process, this Court would give liberty to the petitioner to file a self-contained representation to the respondent no.2 along with whatever evidence she has in support of her claim and the respondent no.2, on receipt of such representation, will take a final decision within a period of four months from the date of receipt of this order. If the petitioner is found entitled to payment of any amount, the same also must be paid to her within a period of one month from the date of decision being taken by the respondent no.2 to this effect.

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

(Mihir Kumar Jha, J)

Rishi/-

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