

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15172 of 2008

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Shrimati Prabha Sinha wife of late Awadhesh Kumar Sinha, resident of Mohalla-Chitragupta Nagar, Kankarbagh, Police Station-Patnakar Nagar, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The High Court of Judicature at Patna through the Registrar General, Bailey Road, Police Station-Kotwali, District-Patna.
3. The Registrar General, Patna High Court, Bailey Road, Police Station-Kotwali, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

10. 16.01.2015

Heard learned counsel for the parties.

The petitioner, who is wife of ex-employee of the Patna High Court has claimed payment of arrears of post retiral benefit due to her husband on account of him having gone missing since 01.06.1987. It appears that the petitioner had gone on leave with effect from 20.11.1984 and thereafter never joined service. In the meantime, as per the contention of the petitioner, he went missing. The further contention is that in Title Suit No. 377 of 1994 by judgment dated 03.06.1998, the Court has declared the petitioner to be the wife of the employee namely, Awadhesh Kumar Sinha and further that he is to be considered dead as not having been heard for seven years since 01.06.1987.



Counter affidavit has been filed on behalf of the High Court of Judicature at Patna in which the stand is that the husband of the petitioner had last applied for extension of his leave till 31.12.1985 after which there was no communication from him and pursuant to departmental proceeding, he was removed from service by order dated 18.08.1992, copy of which has been made Annexure-A to the counter affidavit. It has further been submitted that due of G.I.S. contribution and also final withdrawal of G.P.F. has been paid to the petitioner on 08.04.1999 and 08.10.1999 respectively. Further stand is that as the husband of the petitioner was removed from service of the Court, he is not entitled to payment of death-cum-retiral gratuity as well as family pension.

Upon considering the submissions of learned counsel for the parties and on the basis of materials on record, it transpires that the husband of the petitioner stood removed from service of the High Court with effect from 18.08.1992 without the said order being assailed and further even after the judgment in the Title Suit on 03.06.1998 and decree dated 10.07.1998, the matter has been brought before the High Court on the judicial side in the present writ application only in September, 2008 i.e., after over 10 years. The explanation given in the writ petition is that the petitioner had lost her mental balance and memory and suddenly the memory came

back to her and she narrated the entire position. This Court is unable to appreciate such fact as after the disappearance of the petitioner, Title Suit was filed by the petitioner in the year 1994 and it was also contested and she appeared and gave evidence and got a judgment in her favour and thus whatever mental trauma she may have faced immediately upon her husband having gone missing, she coped with it and contested the suit. Thereafter a favourable judgment in her favour was passed and the stand that she lost her mental balance and memory is difficult to accept. Further, the remaining entitlement of the due to the husband of the petitioner have been paid to her.

In the aforementioned background and the peculiar facts and circumstances of the case, this Court is not inclined to interfere in the matter and accordingly, on the ground of delay and laches, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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