

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.154 of 2015

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Sushila Devi Wife of Late Raghu Nandan Prasad Gupta Resident of Village
- Janki Nagar, P.S- Naya Ram Nagar, District - Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Engineer In Chief, Water Resources Department, Government of Bihar, Patna.
4. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Executive Engineer, Fulwaria Dam Rajauli, P.S- Rajauli, District - Nawada.
7. The Accountant General, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kr Sinha No.2,
For the Respondent/s : Mr. Sanjay Kr Singh AC to AAG-12
For Accountant General : Mr. Ranjan Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 12-03-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ
application reads as follows:-

*“That, by this application, the prayer of the
petitioner is to pay the retirement benefits i.e. Pension,
Gratuity, Leave Salary, G.P.F, Group Insurance and
other admissible dues payable to the husband of the
petitioner with interest.”*

Learned counsel for the petitioner wants disposal
of this writ application in terms of paragraph no. 14 of

the counter which reads as follows:-

“That thereafter, in the light of said memo no.-457 dated 13.2.2015 (Annexure-A), the answering respondent has issued letter no.-127 dated 25.2.2015 in which family pension of petitioner has been fixed w.e.f. 1.1.2002 provisionally and the same has already been communicated to the petitioner.”

As would be noted the relief sought in the writ application were far more wider in nature but now learned counsel for the petitioner wants this relief of family pension alone to be given to the petitioner. The reason for the same is also very clear, inasmuch as, the husband of the petitioner who has entered into service in the year 1965, was made an accused in a criminal case and dismissed from service in the year 1998. The husband of the petitioner died on 07.12.2011, while he was still availing the remedy by filing a writ application being C.W.J.C No. 11469 of 1998, assailing his order of dismissal passed in the year 1998. This Court in absence of the information given by either party that the husband of the petitioner who was the writ petitioner in C.W.J.C No. 11469 of 1998 had already died on 07.12.2011, had



disposed of the writ application on 23.03.2012, setting aside the order of dismissal and remitting the matter back for fresh inquiry. Such inquiry could not have been held and therefore, because the husband of the petitioner has already died and thereafter an application was filed for modification of the order dated 23.03.2012, passed in C.W.J.C No. 11469 of 1998 vide M.J.C No. 2252 of 2013 that was disposed of by holding as follows:-

“In view of peculiar facts and circumstance of the case, though it is true that no proceeding can be continued against a dead person but it was duty of the counsel for the petitioner to bring this fact to the notice of the Court but the fact remains that this fact was not brought to the notice of this Court and the court in ignorance passed the order. This Court is not modifying the earlier order. However, liberty is given to the present petitioners to bring this fact to the notice of the Enquiry Officer who shall consider the same and pass appropriate order in view of the observations made above.”

It is only thereafter that the respondents have held the petitioner, the widow, to be entitled for payment of family pension and that has been sought to be accepted by her counsel in terms of paragraph no. 14 of the counter affidavit.

In view of the above, while this writ application is

disposed of with a direction to the respondents to ensure that the payment of family pension to the petitioner must be made w.e.f 07.12.2011 onwards by way of payment of both arrears and current, within a period of three months from the date of receipt of this order but then it is also held that the petitioner would not be entitled for any other amount as claimed by her in this writ application.

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

(Mihir Kumar Jha, J)

Ranjan/-

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