

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5602 of 2015

=====

Most. Kalyani Devi. Wife of Late Ravindra Kumar Mishra. Resident of village -
Bedauli, P.S.- Naubatpur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Managing Director, Bihar State Food and Civil Supplies Corporation having its Office at Sone Bhawan, 5th Floor, Birchand Patel Path, Patna-800001.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation having its Office at Sone Bhawan, 5th Floor, Birchand Patel Path, Patna-800001.
3. The Chairman-cum-Managing Director, Jharkhand State Food Corporation, Dhurva, Ranchi, State - Jharkhand.
4. The District Manager, Jharkhand State Food Corporation, Giridih, District - Giridih, State - Jharkhand.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bindeshwar Kumar

For the Respondent/s : Mr. Shailendra Kumar Singh

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 10-04-2015

Heard learned counsel for the parties.

The widow of late Ravindra Kumar Mishra, an employee of
the Bihar State Food and Civil Supplies Corporation (hereafter to be read
as 'the Corporation') is before this Court with the following relief:-

*"1. -----commanding the respondents authorities
concerned to pay the arrears of salary of the period from
March 1999 to April 2006 to the petitioner who is the widow
of Late Ravindra Kumar Mishra who died in harness on
30.4.2006 in a road accident living behind the petitioner and
two sons-----"*

Learned counsel for the petitioner explains that after the death
of the husband of the petitioner, a dispute was raised by one Salma
Begum claiming to be the legal heir and successor of the husband of the



petitioner and she had file a writ application in the Jharkhand High Court being WP(S) No. 6308 of 2007. He explains that when the petitioner had intervened in that writ application for explaining that Salma Begam was imposter and that she could not have any claim on the death-cum-retirement benefit of the husband of the petitioner, the issue was remitted to the authorities of the Corporation for hearing both the sides and decide as to who would be the legally eligible to claim death-cum-retirement benefit of late Ravindra Kumar Mishra. Counsel has also placed reliance on a subsequent order of this Court dated 27.1.2009 in CWJC No. 7718 of 2008 wherein this petitioner herself had approached this Court for a direction to the Corporation for payment of death-cum-retirement benefit of her husband. Counsel explains that even this Court had, after noticing the aforesaid order of the Jharkhand High court dated 19.12.2008, had passed a similar order relegating the petitioner to seek her remedy before the authorities of the Corporation. Learned counsel for the petitioner has also pointed out that subsequent to the direction of both the High Court and this Court in the aforesaid writ applications, the Managing Director of the Corporation on 31.7.2012 had gone to hold that it was the petitioner who is legal heir of late Ravindra Kumar Mishra and was entitled to receive payment of death-cum-retirement benefit. The grievance of the petitioner is that despite that order dated 31.7.2012, the petitioner has not been paid anything and that is why she has been compelled to move this Court.



Learned counsel for the Corporation, on the other hand, does not dispute all these things but submit that since the husband of the petitioner was working at Giridih and had died on 30.4.2006 after creation of the State of Jharkhand on 15.11.2000, the liability for payment of death-cum-retirement benefit will not be that of the Bihar State Food and Civil Supplies Corporation but only of the Jharkhand State Food and Civil Supplies Corporation. He has also submitted that the issue relating to such bifurcation of liability of the erstwhile employees of the Bihar State Food and Civil Supplies Corporation pursuant to a decision of the Government of India is still subjudice before this Court.

In the considered opinion of this court, so far as the case of the petitioner is concerned, the dispute between the two Boards of Bihar and Jharkhand cannot be made a ground for non-payment of death-cum-retirement benefit. Admittedly, the Government of India was entitled and in fact had decided with regard to liability of the Bihar State Food and Civil Services Corporation pursuant to the bifurcation of the State. The cut off date of sharing such liability between the two Corporations may be the concern for the two Corporations but the employees particularly a person like the petitioner, being a widow of the employee, claiming death-cum-retirement benefit of her husband, cannot be subjected to harassment specially when it is the authorities of the Bihar State Food and Civil Supplies Corporation who has decided to hold that the



petitioner was the legal heir of late Ravindra Kumar Mishra. Had the authorities of the Bihar Corporation any reservation of making payment of the death-cum-retirement benefit, probably he would not have decided the issue and left it to the Jharkhand Board. That however was not done and in fact a reasoned order passed by the competent authority of the Corporation at Bihar will leave nothing for this Court to speculate but to come to a positive conclusion that on the date of death of the husband of the petitioner since the Jharkhand Corporation was not in existence and it was the Corporation at Bihar which was functional either in the truncated territory of State of Bihar or in the newly created State of Jharkhand, the liability will be of Bihar Corporation. This Court, however, must make it clear that if at any point of time the Government of India, being the final authority decide to apportion the liability of the Jharkhand Corporation even for the period prior to it came into existence, the amount that would be paid to the petitioner by way of death-cum-retirement benefit of her husband Ravindra Kumar Mishra will be capable of being decided between the two Corporation.

In the light of the aforesaid observation, this Court would direct the authorities of the Bihar State Food and Civil Supplies Corporation to settle all the legally payable and admissible death-cum-retirement benefit of late Ravindra Kumar Mishra within a period of three months from the date from which the relevant paper submitted by the petitioner to the District Manager, State Food Corporation, Giridih

will be forwarded for such payment to the Bihar State Food and Civil Supplies Corporation. In other words, the petitioner will be immediately approach the District Manager of Food and Civil Supplies Corporation at Giridih and hand over all her claims whereafter it will be the duty of the District Manager at Giridih to examine the same and make recommendation for payment of all admissible death-cum-retirement benefit in accordance with law.

This exercise also must be completed by the District Manager at Giridih within a period of one month from the date of the submission of the claim by the petitioner along with a copy of this order.

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

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--