

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1266 of 2014

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Manju Devi, Wife Of Late Vishwa Mohan Kumar, Resident Of Village -
Kunwar Pokhar, Police Station - Baheri and District - Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Supaul
4. The Sub Divisional Officer, Triveniganj, Supaul
5. The Additional Collector, Supaul
6. The S.D.O. , Nirmali, District - Supaul
7. The Circle Officer, Mairona, Dist. - Supaul
8. The Circle Officer, Chhatapur, District - Supaul
9. The Deputy Treasury Officer, Birpur, Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Advocate.

For the Respondent/s : Mr. Nawal Kishore Singh, SC 2.
Mr. Kamlesh Prasad, AC to SC 2.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

6 20-02-2015

Heard learned counsel for the parties as with regard to

the following relief prayed in this writ application:

*".... Directions to the respondents to pay the death cum
retiral benefits to the petitioner and or issuance of
consequential writ or writs to pay the payment of salary
from 23.05.2007 to 29.10.2011 along with statutory as well
as penal interest thereon and compensation to petitioner
since her husband died due to callous attitude of respondents
while he was undergone treatment at I.G.I.M.S. at Patna."*

2. Learned counsel for the petitioner has submitted that

it would be very difficult for the petitioner now to explain the non-
recovery of advance allegedly taken by the petitioner as has been
sought to be explained in the counter affidavit filed by the Circle
Officer in this case. He has also submitted that there are some

documents to show that the husband of the petitioner actually had deposited the said amount either through the vouchers or the cash, advanced given to him.

3. Having regard to the aforementioned issue and specially when the fact that the widow, before this Court, is claiming death-cum-retirement benefits and other in-service benefits of her husband, this Court had directed to make such payment by 30th January 2015 and also directed the District Magistrate, Supaul to file a counter affidavit with regard to payment of such admissible retirement benefits.

4. When this was not done, this Court, by an order dated 06.02.2015, had sought personal appearance of the District Magistrate, Supaul to explain disobedience on his part. Pursuant thereto, Mr. Laxman Prasad Chauhan, District Magistrate, Supaul has appeared in person and on the basis of the counter affidavit filed by the Circle Officer, has taken a plea that on detail verification, it has been found that a sum of Rs. 5,20,000/- was given in advance to the husband of the petitioner, out of which the total adjustment made by him, either through voucher or in cash, was only to the tune of Rs. 2,87,200/- and as such a sum of Rs. 2,32,800/- had remained payable by the husband of the petitioner. It has been claimed that in order to recover this amount, the death-

cum-retirement benefits of the husband of the petitioner was not paid.

5. In the considered opinion of this Court, the official respondents, having arrived at the aforementioned finding, ought to have made payment of balance amount of the death-cum-retirement benefit and payable amount to the husband of the petitioner instead of forcing the petitioner to file this writ application. In view of this, the only question could have been, as to whether the recovery of Rs. 2,87,200/- was justified, but now when the issue has arisen with regard to withholding of the legitimate amount of retirement benefit of the husband of the petitioner, this Court cannot approve the action on the part of the district administration of withholding the entire amount on account of non-recovery of Rs. 2,32,800/- from the husband of the petitioner.

6. In such a situation, this Court would direct the District Magistrate, Supaul to himself ensure that all the payable amount of the husband of the petitioner whether by way of in-service benefit or admitted payment or post retirement benefits, must be paid to the petitioner within a period of one month from today, after deducting the amount of Rs. 2,32,800/-. The District Magistrate, Supaul will also be under obligation to give a

calculation chart of the total amount paid to the petitioner as also the amount of recovery made from the petitioner.

7. On receipt of such calculation, if the petitioner finds herself to be entitled for any further payment towards retirement benefit of her husband or even any in-service benefit of her husband, she may file a representation to the District Magistrate, which shall be looked into and disposed of in accordance with law.

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

9. The personal appearance of Mr. Laxman Prasad Chauhan, District Magistrate, Supaul is hereby dispensed with.

(Mihir Kumar Jha, J)

Sujit/-

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