

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14800 of 2012

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Nirja Devi W/O Late Rahul Kumar Resident Of Village- Taregnadih (Ward No. 1),
P.S- Masaurhi, Distt- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through The Under Secretary Bihar, Personnel Land Administrative Reforms, Department, Distt- Patna.
2. The Secretary, Law Department Bihar, Patna, P.S & Distt- Patna.
3. The Accountant General (A & E), Bihar, Patna, P.S And Distt- Patna.
4. The Treasure Officer, Patna Sinchai Bhawan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Avinash, Advocate

For the State : Mr. Sheo Shankar Prasad, SC 8.

Mr. H.S. Sundaram, AC to SC 8.

For the Accountant General : Mr. Vivekanad Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 11-08-2016

1. The petitioner is the widow of late Rahul Kumar who was working as Lower Divisional Clerk in the Law Department of Secretariat, Patna and died on 03.04.2010. Upon his death, the Accountant General Bihar had issued authority slip for payment of family pension and gratuity on 6.6.2012. Alleging that despite issuance of authority slip by the office of the Accountant General, the petitioner has not been paid her family pension and gratuity she filed present writ application seeking appropriate direction for payment of the said amount.

2. This Court, by an order dated 14.08.2012 had disposed of the writ application with direction to the respondents to ensure that difference of pension under Pension Intimation Memo, along with arrears and the pending gratuity are paid to the petitioners within a period of six weeks from that date.

3. An application seeking review of the said order dated 14.08.2012, was subsequently filed by the State of Bihar giving rise to Civil Review No. 395 of 2012, on the ground that the writ application had been filed on the basis of wrong facts and false statements. The State of Bihar took a plea that as a matter of fact, the very initial appointment of the petitioner's late husband was cancelled on 10.05.2012 as he and six other similarly situated persons had committed forgery by changing the records/documents in order to obtain their appointment as Lower Divisional Clerk in the year 2004.

4. Learned counsel for the petitioner has tried to convince the Court that since the petitioner's late husband died on 3.4.2010, there would have been no question of issuing an order cancelling his initial appointment on the subsequent date i.e. 10.5.2012.

5. It has been submitted that since the petitioner's late husband was in service on the date of his death, the petitioner who is widow, is entitled for entire death-cum-retrial benefit. This is the admitted fact that appointment of petitioner's late husband itself was cancelled by

an order dated 10.05.2012 on the ground that he had secured appointment on the basis of forged documents.

6. This is the settled law that any order obtained on the basis of an act of fraud is a nullity from the very beginning in the eye of law. Since the appointment of late husband of the petitioner has itself been found to have been fraudulently obtained, the petitioner who was widow cannot be held to be entitled for post retiral dues under the pension rules.

7. I do not find any merit in this application. The same is accordingly, rejected.

(Chakradhari Sharan Singh, J)

Prakash/-

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