

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6908 of 2017

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Ranjana Pandey, wife of Late Chandra Shekhar Prasad Pandey, Resident of At +
P.O. - Pavai, P.S. - Amarpur, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Department, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate, Banka.
4. The Block Development Officer, Shambhuganj, Banka.
5. The Director, Provident Fund, Pant Bhawan, Bailey Road, Patna.
6. The District Provident Officer, Banka.
7. The Accountant General Bihar, Birchand Patel Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.
Mr. Chandan Priyadarshi, Adv.
Ms. Priya, Adv.

For the Respondent/s : Mr. Sumant Kumar Singh, AC to GA-2

For the Respondent- AG : Mr. Chaitanya Swaroop, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-08-2017

Heard Mr. Sanjeev Kumar Mishra, learned counsel
appearing for the petitioner, Mr. Sumant Kumar Singh, learned
Assisting Counsel to Government Advocate No.2 for the State and
Mr. Chaitanya Swaroop, learned counsel appearing for the
Accountant General.

The petitioner is aggrieved by the order of the Block
Development Officer as contained in Memo No.326 dated 4.3.2017
impugned at Annexure-3, whereby he has instructed the Senior
Treasury Officer, Banka to adjust the amount of Rs.15,35,136/-
stated to be the advance taken by the late husband of the petitioner



for execution of certain schemes and not accounted for, from his retiral/terminal benefits which, according to the respondents, was calculated to Rs.17,31,181/- and after adjusting the advance stated to be the outstanding against the husband of the petitioner of Rs.15,35,136/- that order was issued to make payment of the balance amount of Rs.1,96,045/-.

The short facts leading to the writ petition is that the husband of the petitioner having been appointed as Panchayat Sevak, joined on 6.11.1986 and while in service, died on 21.10.2015. The widow petitioner applied for death cum- retiral benefit but was visited by the order placed at Annexure-3, whereby the Block Development Officer, Shambhuganj after adjusting the amount of Rs.15,35,136/- stated to be outstanding advance against the husband of the petitioner has directed for payment of Rs. 1,96,045/- to the petitioner towards the death cum retiral benefits.

The short count on which the direction was questioned by Mr. Mishra, learned counsel appearing on behalf of the petitioner is that such order has been passed ex-parte and without any opportunity to the late husband of the petitioner to explain the situation. A specific statement to such effect is made at paragraph 5 of the writ petition. It is the submission of Mr. Mishra that in absence of opportunity to the late husband of the petitioner to



explain the advances, no such order could be passed unilaterally and in fact after the death of late husband of the petitioner, no such proceeding can be initiated.

It is taking note of the issues raised that this Court directed the State to support the impugned action and when a counter affidavit is filed by the Block Development Officer, Shambhuganj and learned State Counsel in reference to paragraph 10 of the counter affidavit has submitted that a huge sum by way of advance was obtained by the late husband of the petitioner for execution of the schemes and which was enquired upon a complaint made. It is submitted that on enquiry it was found that a huge sum taken by way of advance remains unaccounted by the late husband of the petitioner and hence the impugned direction for recovery. Learned State Counsel, however, was unable to invite the attention of this Court to any statement contesting the stand of the petitioner that the order was ex-parte.

Having heard learned counsel for the parties and considering that an order of recovery has been passed by the Block Development Officer, Shambhuganj without any opportunity of hearing to the deceased employee and the order of recovery though was resting on a complaint, yet the Block Development Officer, Shambhuganj did not bother to hear the husband of the petitioner,



no such unilateral action could be taken by the Block Development Officer, Shambhuganj to recover the amount in question which action is clearly barred on the principles of natural justice.

For the reasons discussed above, the order of the Block Development Officer, Shambhuganj dated 4.3.2017 present at Annexure-3 in so far as it issues direction to the Senior Treasury Officer, Bank to recover the amount of Rs.15,35,136/- from the death cum retiral benefit of the petitioner is held illegal and is quashed and set aside.

Let the recovered amount be paid to the petitioner within three months from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09-09-2017
Transmission Date	NA

