

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8426 of 2015

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Surendra Prasad Singh, S/o Late Narsingh Singh, Resident of Village Hati Kothi,
P.O. & P.S. Biroul, District Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. Civil Surgeon cum Chief Medical Officer, Darbhanga.
3. Incharge Medical Officer, Primary Health Centre, Biroul, Darbhanga.
4. District Treasury Officer, Darbhanga.
5. District Provident Fund Officer, Darbhanga.
6. Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Kumar, Advocate

For the Respondent/s : Mr. Amish Kumar, AC to AAG-8

For Accountant General : Mr. Ram Yash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsel for the Petitioner, State and
Accountant General.

2. The instant writ application has been filed by the
petitioner for payment of family pension and other legal dues payable
to the petitioner as gratuity, leave encashment, provident fund, group
insurance etc. on account of death of his wife late Kanti Sinha.

3. Counsel for the State submits that the petitioner is
not entitled to any death-cum-retiral benefits. In fact, the wife of the
petitioner, namely, late Kanti Sinha, was terminated from service and
the writ application filed against the order of termination was
withdrawn.



4. Mr. Shiv Kumar, counsel appearing for the petitioner fairly submits that after death of Kanti Sinha, the writ application was withdrawn, whereas other similarly circumstanced have contested the termination order and they have been reinstated in service and allowed the benefits as regular employees.

5. Be that as it may, this Court is not inclined to enter into the controversy whether the termination was lawful or not in view of the fact that the writ application challenging the order of termination was withdrawn. My attention has been drawn towards the representation (Annexure-11), whereby the petitioner has represented the incharge Medical Officer, Health Centre, Biroul, Darbhanga with regard to payment of earned leave, group insurance, gratuity and provident fund, it is stated that the representation is still pending.

6. In the counter affidavit, the respondents have denied the liability of payment of any death-cum- retiral benefits on the ground that the appointment of the wife of the petitioner was found forged, as during verification her certificate was found to be forged and, as such, the petitioner is not entitled to any death-cum-post retiral benefits. So far as the pension and gratuity are concerned, as per definition of pension, the gratuity is part of the pension and, therefore, this Court is not in a position to issue a direction for payment of pension and gratuity. The other benefits i.e. Group



Insurance and Provident Fund are concerned, if any amount was deducted from the salary of the wife of the petitioner, the respondents are required to consider the claim of the petitioner for payment of those dues in accordance with law.

7. Accordingly, this application is disposed of with liberty to the petitioner to file representation before respondent no.2, who shall see that all the lawful and permissible dues is paid to the petitioner in accordance with law within a period of two months from the date of filing of representation along with a copy of this order. It is made clear that this Court has not expressed any opinion on the merit of the claim of the petitioner.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	

