

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16621 of 2015

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Most. Dulari Devi W/o Late Prayag Das @ Prayag Paswan, R/o Village Upraura
P.S. Bihar P.O. Muraura District Nalanda.

.... Petitioner/s

Versus

1. The Bihar State Power Holding Company Limited through its Chairman cum Managing Director, Bihar, Patna.
2. The Managing Director, South Bihar Power Distribution Company Limited, Vidhut Bhawan, Bailey Road, Patna.
3. The Senior Manager (Personal) South Bihar Power Distribution Company Limited, Electric Supply Area, Central Patna.
4. The General Manger-cum-Chief Engineer, Central Electric Supply Area, 8 Serpentine Road, Patna.
5. The Deputy General Manger cum Electric Superintending Engineer, South Bihar Power Distribution Company Limited Area Electricity Supply Area Central, Patna.
6. The Electrical Superintending Engineer, Electric Supply Circle, Nalanda at Biharshirf.
7. The Executie Engineer, Electric Supply sub-Division No. 2, Biharsharif, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-11-2017

Heard learned counsel for the petitioner and the
respondents.

2. The petitioner has moved the Court for the following
relief:

*“ That the present application is being
filed for issuance of writ of certiorari
quashing of letter No.–Pension-1524/13-
1721 dated 2.7.15 whereby and whereunder
payment of family pension of the petitioner
has been rejected on the basis of legal
opinion. It is further prayed that writ of*



mandamus be issued directing respondents to pay family pension and gratuity to the petitioner after the date on which husband of the petitioner died in harness”.

3. Basically, the petitioner, who is claiming family pension has been denied the same on the ground that her husband was convicted and sentenced to imprisonment sometime in April, 2004 and against which he had filed an appeal before this Court in which he was granted bail and he remained in custody from 12.04.2004 to 31.05.2004. The ground taken in the counter affidavit is that he has never informed the employer with regard to him being made accused and furthermore, that after conviction his service was required to be terminated after initiating a departmental proceeding.

4. The Court finds such stand taken on behalf of the respondents to be peculiar and absolutely untenable. It is admitted position that pursuant to the conviction and sentencing of the petitioner, he was taken into custody and thereafter in the appeal filed before this Court, he was granted bail. Such fact was known to the respondents as he was placed under suspension on account of the same and thereafter, he was released from suspension. Thus, there cannot be any question of any suppression on the part of the late husband of the petitioner. If the late husband of the petitioner was required to be dismissed from service, it was for the employer to take



a decision and it not having been done so, now, after his death in the year 2011, the widow cannot be denied family pension. The stand taken by the respondents is totally unacceptable and impermissible. It is not in dispute that the petitioner was neither dismissed nor any departmental proceeding started against him. Once that position is not denied, coupled with the fact that it cannot be said that the husband of the petitioner suppressed the fact about his conviction as for that reason he had been suspended by the respondents, after his death in the year 2011, the family pension to the widow i.e., the petitioner today, cannot be denied.

5. Accordingly, the writ petition stands allowed.

6. The respondents are directed to make payment of family pension to the petitioner in terms of her entitlement. The exercise be completed and payment started to her within two months from the date of production of a copy of this order before the respondent no. 4, failing which the same shall carry 8% simple interest for the period of delay.

(Ahsanuddin Amanullah, J.)

P. Kumar

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