

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4006 of 2017

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Md. Anwar son of late Azim resident of mohalla - Kaimasikoh Ward
No. 34, Police Station - Chowk Patna City, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Deputy Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The Patna Municipal Corporation, Patna through its Chief Executive Officer, Patna.
4. The Municipal Commissioner, Patna Municipal Corporation, Patna.
5. The Executive Officer, Patna Municipal Corporation, Patna City Anchal, Patna.
6. Md. Amin son of late Azim resident of mohalla - Kaimasikoh Ward No. 34, Police Station - Chowk Patna City, District - Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bashishtha Narayan Mishra, Advocate
For the PMC : Mr. Ranjeet Kr. Pandey, Advocate
(Resp. No. 3 to 5)
For the State : Mr. Dilip Kumar, AC to GA-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 20-07-2017

Heard learned counsel for the petitioner
and learned counsel representing respondent nos. 3
to 6, who are the main contesting respondents in the
present case.

The petitioner, in the present case, is
seeking a writ of mandamus for a direction to the
respondents to pay the death-cum-retiral benefits
(gratuity) of his deceased father, who was a Class-IV
employee with respondent no. 4 namely, the Patna



Municipal Corporation, Patna.

Learned counsel for the petitioner submits that the writ application has been filed at this stage only because the petitioner came to know that some similarly situated persons have been paid a much higher amount of gratuity. This court has drawn attention of the learned Advocate towards his own statement made in paragraph-8 of the writ application and raised specific query as to whether the plea taken by him at this stage with regard to payment of enhanced amount of gratuity is legally tenable.

Learned counsel for the petitioner fairly accepted that he cannot be able to make out a case giving a legal right to the petitioner to claim such a higher amount because his father had already died in the year 2000 itself.

Learned counsel for the petitioner further admits that after death of his father he had been paid the death cum terminal benefits vide Annexure-2 and the same was received without any protest. Even the plea of petitioner that similarly situated persons have



been paid enhanced amount has no basis to stand.

Learned counsel for the contesting respondents submits that the petitioner has raised this issue at a belated stage even though everything was settled in the year 2004 and in fact some more amount has been paid to the petitioner in the year 2016 as admitted by the petitioner on account of some arrears.

Having examined the pleadings of the writ petitioner, this court does not find any reason to issue a writ of mandamus as the payment with regard to the death cum terminal benefit payable to the father of the petitioner has already been settled about 13 years back and all these years no grievance was raised by the petitioner. This matter cannot be allowed to be reopened to give rise to further litigation.

This writ application, therefore, stands dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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