

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11744 of 2016

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Draupadi Devi, W/o Late Birendra Prasad Singh, resident of Village- Bara, P.O.- Bara-Solahpur, P.S.-Chandradeep, District-Jamui.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, Sheikhpura.
4. The District Programme Officer (Establishment), Sheikhpura.
5. The District Provident Fund Officer, Sheikhpura.
6. The Block Education Officer, Ariari, District- Sheikhpura.

.... 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: 29-11-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the following

reliefs:

“1. That the petitioner prays for issuance of a writ in the nature of mandamus commanding and directing upon the Respondents concerned specially Respondent No. 5 to pay the due amount of G.P.F. with upto date statutory as well as penal interest as the petitioner is widow of deceased employee Late Birendra Prasad Singh who died in harness on 15.09.2012 being posted as Assistant Teacher in Elevated Middle School, Afardih under Anchal-Ariari, District- Sheikhpura and through her family pension and other death-cum-retiral benefits except G.P.F. has been paid in January, 2013 but till date G.P.F. has not been paid as yet without any valid reason. Any other order/orders for granting any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of this



case.”

2. That the main points for consideration in the instant writ application is as to whether the action of Respondents not to pay the due amount of G.P.F. due to death in harness of her deceased husband on 15.09.2012 and despite having made an application before the Respondent authorities for payment of entire death-cum-retiral benefits including G.P.F. with up to date interest, till date not a single paisa of G.P.F. has been paid as yet, is not illegal, improper, unjust, arbitrary, against the provision of law as also against the several judicial pronouncements of this Hon'ble Court?”

3. However, as of now, the only grievance remains relating to non payment of interest for the period April, 2013 to August, 2016 on G.P.F.

4. Learned counsel for the petitioner submitted that she being a widow, whose husband had died in harness, had moved the authorities for payment of all her retrial dues which includes G.P.F. and was initially told that details of some deduction were still awaited from the district of Jamui for which she should bring the details. Learned counsel submitted that the widow being unable, the matter kept pending and only when the present writ petition was filed and copy served on learned counsel for the State, they have started moving and payment made when the authorities got the relevant withdrawal paper signed by the petitioner. It was submitted that the petitioner being a widow and that too when the husband dies in



harness, having approached the authorities, it was incumbent upon them to ensure that all the required legal formalities, including signing on any withdrawal form is made for which the petitioner cannot be penalized. In this regard learned counsel also relied upon a decision of a Bench of this Court in the case of **Ram Chandra Kamat vs. State of Bihar** reported as **2011(1) PLJR 772**, in which a distinction has been made in the case of an employee himself and his heirs. It has been held that in the case of an employee being alive, the onus is on him to fill up the withdrawal form within time but in case where the employee is dead, it is the duty of the authorities concerned to ensure that all formalities are got completed by the heirs and under such circumstances, it has been held that the person was entitled to the statutory interest on G.P.F. right from the date of death till the date of actual disbursement.

5. Learned counsel for the State, on the basis of stand taken in the counter affidavit submitted that there was delay on the part of the petitioner in filling up the withdrawal form and thus, as per the provisions, the interest only for the initial five months and thereafter from the date of signing of the form till actual payment has been made and the period of April, 2013 to August, 2016 has been taken as gap period for which no interest is admissible.

6. Having considered the matter, the Court finds that the



petitioner shall be entitled to interest for the entire period. For such purpose, the Court adopts the reasoning given by a co-ordinate Bench in the case of **Ram Chandra Kamat** (supra). It is held that the petitioner shall be entitled to interest for the entire period i.e., from the date of death of her husband till the date of actual payment with the statutory interest on G.P.F. The same be recalculated and after adjusting the amount already paid, the balance be paid within three months from the date of production of a copy of this order before the respondent no. 5.

7. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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