

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2116 of 2016

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Khairul Nesha, wife of Late Ajmal Hussain, resident of village - Chintaman
Pur, P.S. Malahi, District - East Champaran

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Minor Water Resources Department, Vikash Bhawan, Patna
2. The Principal Secretary, Minor Water Resources Department, Vikash Bhawan, Patna
3. The Engineer - in - Chief, Minor Water Resources Department, Bishveshwaraiya Bhawan, Patna
4. The Chief Engineer, Minor Water Resources Department, Muzaffarpur
5. The Superintending Engineer, Minor Water Resources Department, Chhapra
6. The Superintending Engineer, Minor Water Resources Department, Muzaffarpur
7. The Executive Engineer, Minor Irrigation Division, Gopalganj
8. The Executive Engineer, Minor Irrigation Division, Siwan

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suryakant Kumar, Advocate
For the State : Ms. Alka Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

4 06-10-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is widow of Ajmal Hussain, who died on
9.11.1998 while working as a Peon in the office of Executive
Engineer, Minor Irrigation Division, Siwan.

In the counter affidavit a dispute is raised in paragraph-
15 that husband of the petitioner was only a daily wage worker
and, as such, petitioner is not entitled to death-cum-retiral benefits.
Petitioner has filed a rejoinder to the counter affidavit wherein she
has stated that husband of the petitioner was not a daily wage



worker, rather he was a regular employee and was appointed on regular pay scale of Rs.155-190/-, which is evident from Annexure-1 to the writ application.

Learned counsel for the petitioner submits that the counter affidavit is based on wrong premises of fact, which referred to a person in the name of Ajmal, who was working as Site Chowkidar in Minor Irrigation Division, Siwan, whereas husband of the petitioner, Ajmal Hussain, is a different person other than discussed in paragraph-6 of the counter affidavit. In the rejoinder to the counter affidavit in various paragraphs statements have been made, including pay scale and demonstrated that husband of the petitioner was a regular employee working as a Peon and the statement made in paragraph-6 to the counter affidavit is wrong.

In view of aforesaid, the respondents are required to examine the claim of the petitioner in the light of Annexure-6 Series afresh and take a final decision as to the entitlement of death-cum-retiral benefit and if it is found that husband of the petitioner was a regularly appointed Peon in the Minor Irrigation Department, the respondents are obliged to take steps for payment of death-cum-retiral benefits at the earliest. Since the matter is with regard to death-cum-retiral benefits relating to the year 1998, the respondents are under obligation to decide the claim of the



petitioner expeditiously, preferably within a period of three months from the date of receipt/production of a copy of this order.

Petitioner shall file a representation along with a copy of this order before respondent No.3, the Engineer-in-Chief, Minor Water Resources Department, Patna within a period of one month from today and the responsibility of respondent No.3 shall be to take a final decision on the claim of the petitioner by passing a reasoned speaking order and in case it is found that husband of the petitioner was a regularly appointed Peon in the Minor Irrigation Department, respondent No.3 is directed to ensure payment of all admissible dues to the petitioner within a period of three months from the date of filing of such representation and in the event of delay in making payment of admissible dues, the same will carry interest at the rate of 9% per annum from 1998 till the date of actual payment.

With the above observation, this application is disposed of.

(Anil Kumar Upadhyay, J)

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