

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11609 of 2014

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Anuradha Devi Wife of Late Ashok Kumar Singh resident of village - Manani,
Police Station - Wazirganj, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Director, Department of Agriculture, Bihar, Patna.
2. The District Magistrate, Begusarai.
3. District Manager, Food Corporation of India, Kachari Road, Begusarai.
4. B.D.O. Sahebpur Kamal, Begusarai.
5. The District Treasury Officer, Begusarai.
6. District Treasury Officer, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Suresh Rai, Sr. Advocate Mr. Binod Kumar Singh, Advocate
For the State	:	Mr. Kameshwar Kumar, GP-17 Mr. S. K. Rajan, AC to GP-17
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 25-06-2018

Heard learned counsel for the petitioner; State and Bihar

State Food and Civil Supplies Corporation Limited (hereinafter
referred to as the 'Corporation').

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

*“That this writ application is being filed for
quashing the order dated 13.12.2013 (Annexure-6
wherein and whereunder the petitioner has been
directed to deposit amount of 167 quintal wheat
then no dues certificate would be issued and
respondents be directed to pay all dues and pension
to the petitioner whose husband died in harness
during his service period.”*



3. The husband of the petitioner was initially appointed on 14.05.2002 as a Village Level Worker and later promoted as Block Agriculture Officer on 15.07.2010. On 03.09.2010, he joined Begusarai Sadar Block in the same capacity and on 01.03.2011, was transferred to Sahebpur Kamal Block in the District of Begusarai. On 23.07.2012, he was suspended with headquarter fixed at Begusarai. In the departmental proceeding, pursuant to clean chit given to him, the departmental enquiry was concluded without any adverse order. However, on 11.04.2013, the Block Development Officer, Sahebpur Kamal also issued a show cause to him with regard to shortfall of wheat in the godown of which he was said to be Incharge. The petitioner's husband died in harness on 11.09.2013. The petitioner filed a representation seeking death-cum-retiral benefits on 25.11.2013, which resulted in the Block Development Officer asking her to deposit the amount of 167 quintals of wheat by letter dated 13.12.2013, alleging shortfall for which her late husband was held responsible. The petitioner being aggrieved has moved the Court in the present writ application against such orders passed by the authorities.

4. Learned counsel for the petitioner submitted that till the time the petitioner was alive, no departmental proceeding was initiated with regard to shortfall of any wheat, much less, 167



quintals, as has been alleged in the impugned letter. It was further submitted that no further action was taken by the authorities of either initiating departmental proceeding or taking any other action against the petitioner's husband till the time of his death and that within four days of receiving the said letter, he passed away. Learned counsel submitted that the issue stands settled by a Division Bench of this Court in L.P.A. No. 1777 of 2016 dated 18.07.2017, in the case of **Sudha Devi vs. The State of Bihar & Ors.**, in which also after the death of an employee, huge amount was held recoverable from him which the Court held to be unsustainable and direction was issued to settle the pensionary claims of the person concerned, in accordance with law, holding that even the enquiry report which went against the employee could not be used against the appellant, who was a widow for withholding her pensionary benefits, once the employee had died. Learned counsel also referred to and relied upon a decision of the Full Bench of this Court in the case of **Arvind Kumar Singh vs. State of Bihar** reported as **2018(2) PLJR 933**.

5. Learned counsel for the State submitted that upon proper enquiry and report submitted by the officials, even the District Magistrate has held that such amount was due and recoverable from the late husband of the petitioner.

6. However, both learned counsel for the State and the



Corporation were not able to distinguish the present case with regard to the principle decided by the Division Bench in the case of **Sudha Devi** (supra) as well as **Arvind Kumar Singh** (supra).

7. Learned counsel for the State submitted that the State authorities have deducted an amount of Rs. 2,39,812/-, from the dues of the petitioner and transferred it to the Corporation in January, 2016.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds the order impugned to be unsustainable. During the life time of the late husband of the petitioner, only a notice was issued to him but without there being any formal departmental proceeding initiated. Even till date, the authorities have sat idle after only issuing the notice without taking any further step. The law on this point is settled that pensionary benefits cannot be withheld except in accordance with the provisions of Section 43(b) of the Bihar Pension Rules (hereinafter referred to as the 'Rules'), which sets out certain conditions before pensionary benefits can be withheld. In the case where only a show cause or a notice is issued to an employee, the same not being covered under Section 43(b) of the Rules, no amount of pensionary benefits can be withheld. Moreover, the issue having been settled by the aforesaid two judgments of the Division Bench



and the Full Bench in the case of **Sudha Devi** (supra) and **Arvind Kumar Singh** (supra), which learned counsel for the respondents have not been able to distinguish or explain, the writ petition stands allowed. The order impugned is set aside.

9. The petitioner is held entitled to payment of amount which has been deducted and forwarded by the State authorities to the Corporation. Thus, the money now being with the Corporation, is required to be returned to the petitioner. The same shall be done within four weeks from the date of production of a copy of this order before the respondent no. 3.

10. As the petitioner being a widow, has unnecessarily being harassed, the Court holds her entitled to interest at the rate of 5% from 15.01.2016 till the date the amount is returned to her. The interest shall also be paid within four weeks from the date of receipt of a copy of this order by the respondent no. 3.

(**Ahsanuddin Amanullah, J.**)

P. Kumar

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