

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12364 of 2015

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Daresh Devi, Widow of Late Paramdhan Sharma, Resident of Village + Post
Office- Jaypur Police Station- Mehendiya, District- Arawal.

.... Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Health, Government of Bihar, Patna.
2. The Civil Surgeon cum Chief Medical Officer, Arawal.
3. In-charge Medical Officer, Additional Primary Health Centre, Jaypur, District- Arawal.
4. The Accountant General, Bihar, Patna.
5. District Treasury Officer, Jehanabad.
6. District Treasury Officer, Arawal.
7. The Branch Manager, Mehendiya Branch, Punjab National Bank, Arawal.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Choudhary Shyam Nandan, Advocate
For the State	:	Mr. Rakesh Prabhat, A.C. to S.C. 21
For the Accountant General	:	Mr. Kameshwar Prasad Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 12-09-2018

Heard learned counsel for the petitioner; State and

Accountant General.

2. The petitioner has moved the Court for the following

reliefs:

*“That this Writ Petition is being filed for the
issuance of writ/Writs, direction/directions,
Order/Orders, Command/Commands and filed for the
issuance of writ in the nature of mandamus directing
the Respondent Authorities for issuance of payment
order against the Pensionary Benefits of Petitioner’s
Husband namely Paramdhan Sharma, who retired
from Respondent no. 3 Health Center from the post of
Class III on 31.12.1993 and died on 2.6.2006 without
getting his retiral and other admissible dues,
Petitioner further prays for release of retiral dues of*



the her husband along with other arrears including gratuity Provident Fund, Leave Encashment and family Pension and other monitory benefits granted under Bihar Service Condition and Rules along with admissible interest to the Petitioner and Petitioner further prays for grant of any other relief/reliefs for which the petitioner found entitled in the facts and circumstances of this case be also given.”

3. During the pendency of the writ application, all the admissible dues of the petitioner have been paid and with regard to revision of pension, in terms of the 7th Pay Revision, the authorities have written to the concerned Bank for making payment in terms thereof, which is evident from Annexure-X/1, which is copy of the said communication dated 22.06.2018. Such fact is not in dispute.

4. However, learned counsel for the petitioner submitted that interest be granted on delayed payment.

5. Learned counsel for the State submitted that during the lifetime of the petitioner, upon his superannuation in the year 1993 and death in the year 2006, he was being paid his provisional pension and thereafter, the petitioner had not taken appropriate steps by appearing before the authorities concerned and completing the required formalities.

6. Learned counsel for the petitioner disputed such stand and submitted that the petitioner did appear before the authorities but because of their wrong advice, she could not receive the due amount



which was subsequently paid after much delay.

7. In view of the highly disputed questions of fact relating to the role of the parties, for the delay in payment of the dues of the petitioner, any interest awarded would necessarily have to come from the State exchequer and in the absence of the Court getting a clear cut indication or being able to form a view whether laches on the part of the authorities were apparent, in the present case, would not persuade the Court to award interest as, at the cost of repetition, the role of both the sides has been sought to be shown to be the reason for such delay in payment. Moreover, as many persons would have moved from the places concerned, who were required to ensure such payment, it would be difficult to fix responsibility so that the money could be recovered from them and the public exchequer not saddled with the burden of delay and laches of any officer. For this purpose also, detailed fact finding enquiry would be required which this Court feels is not appropriate in the present proceeding.

8. In view thereof, the writ petition stands disposed off with liberty to the petitioner to move before the appropriate forum, in accordance with law, for any claim after getting a declaration with regard to the fault and laches on the part of the authorities for such delay.

9. The Court would observe that in terms of the



communication of the authorities dated 22.06.2018, for making payment, it is expected that the authorities would ensure compliance expeditiously and latest within three weeks from the date of production of a copy of this order before the respondent no. 7.

(Ahsanuddin Amanullah, J.)

P. Kumar

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