IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20262 of 2016

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Meena Kunwar @ Meena Devi, W/o Late Rajbali Singh, R/o Nathunpura, P.S. Gautam Budha, Tarwara Dist. Siwan, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Govt. of Bihar, Vishwa Saraiya Bhawan, Baili Road Patna, Patna.
4. The Executive Engineer, Rural Works Department, Works Division, Biharsharif, Nalanda, Bihar.
5. The Executive Engineer, Rural Works Department Works Division, Chapra, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Avinash Shekhar, Adv.

For the Respondent/s : Mr. Ajay, GA5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date : 28-11-2018

Heard learned counsel for the parties.

Although a prayer for adjournment is being made but in the nature of relief so prayed, this Court is of the opinion that the writ petition itself can be disposed of with a direction to the concern authority inasmuch as the writ petitioner has prayed for direction to the concerned respondent to pay the entire post retiral benefits/ claim of the husband of the petitioner including an amount to Rs.12,99,955/- which has been deducted from the post death claim/ salary amount of the petitioner without any show cause notice and without any proceeding or drawing an adverse conclusion against him.

A counter affidavit is filed and whereas in paragraph 7 of the counter affidavit it is informed that vide Bill No. 77 of 2013-14 an amount of Rs.61,712/- has been paid to the petitioner towards salary for the period 28.01.1999 to 17.06.1999 and from 01.06.2006 to 30.06.2006, in paragraph 8 it is stated that the salary for the period August, 2008 to August, 2011 has also been prepared and paid to the petitioner to the tune of Rs. 10,51,219/- vide Bill No. 90 of 2012-13. In so far as deductions are concerned, it is discussed in paragraph 10 of the counter affidavit and on account of certain advance which has remained pending against the deceased employee that it is informed that the advance to the tune of Rs. 8,50,818.51/- together with interest calculated at the rate of Rs.60,000/- and a further amount of Rs. 3,89,074/- under the additional division was found pending against the name of the deceased husband and which has since been recovered.

There is no rejoinder to the counter affidavit which was served on the petitioner on 14.07.2017 i.e. almost a year and half ago.

In the circumstances and taking note of the statement made by the petitioner who is the widow of the deceased employee, I am persuaded to dispose of the writ petition with a direction to the Secretary, Rural Works Department to consider the pending grievance of the petitioner as also her grievance relating to the deduction of Rs. 12,99,955/- from the death claims admissible to the petitioner bearing in mind the objection taken by the petitioner that the deductions has been made without opportunity of explanation to the deceased employee and whether such objection makes out a case for release of the withheld amount.

Let a discussed order be passed by the Secretary on examining of the pending claims of the petitioner and which order be passed within a period of 3 months from the date of receipt/production of a copy of this order before the Secretary along with her representation on the pending claims.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2018
Transmission Date	NA