

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1577 of 2013

=====

Bibi Rashida Khatoon, Wife of Late Md. Sayeed Ahmad, resident of Village-
Jaipur, P.O. Rahmandih, Police Station- Dhoraiya, District- Banka.

.... Petitioner/s

Versus

1. Rajendra Agricultural University, Bihar Pusa, Samastipur through its Registrar.
2. The Vice-Chancellor, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
3. The Comptroller, Rajendra Agricultural University, Bihar, Pusa, Samastipur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Singh, Advocate
For the University	:	Mr. D. K. Sinha, Sr. Advocate
		Mr. Arvind Ujjwal, Advocate
For the B.A.U.	:	Mr. K. N. Singh, Sr. Advocate
		Mr. Sanjiv Kumar, Advocate
For the State	:	Mr. Tej Pratap Singh, A.C. to A.A.G. 13

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 12-07-2018

Heard learned counsel for the petitioner; State; Dr.
Rajendra Prasad Central Agricultural University and Bihar
Agricultural University.

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

“That this petition is for issuance of appropriate writ in the nature of mandamus commanding/directing the Respondents to sanction the Family Pension and pay the arrears of Family Pension to the petitioner with effect from 17.02.2002 and pay the Arrears of Pension of her late husband to the petitioner with statutory interest as well as penal interest.”

3. The issue for consideration falls in a very narrow
compass. The only fact relevant for deciding the same is whether the



late husband of the petitioner, who superannuated in the year 1993, under the then Rajendra Agricultural University from the post of Associate Professor-cum-Senior Scientist, Soil Science had opted in any particular scheme under the Triple Benefit Scheme of that University. From the pleadings, there was some doubt with regard to whether any option had been exercised by the concerned employee. Under such circumstances, the Court had required Dr. Rajendra Prasad Central Agricultural University to file an affidavit after verification from their records, for the reason that the college from where the late husband of the petitioner had superannuated now falls under the control and jurisdiction of this University. Pursuant to the earlier order dated 21.06.2018, in the counter affidavit filed today, there is a categorical stand taken that no records relating to option exercised by the late husband of the petitioner are available. Once from the records, it transpires that the late husband of the petitioner had not opted for any particular scheme, the next question whether the same was within time, does not arise in terms of amendment to the relevant statute relating to retiral benefits in the years 1979 and 1983, commonly known as the Triple Benefit Scheme, three options were given to the employees to opt for. The first was C.P.F. 10%, the second was C.P.F.-cum-gratuity @ 8% and the third was pension-cum-gratuity. It was stipulated in the statute that if option



was not exercised by an employee within 90 days, he would automatically be governed by the third provision, that is, pension-cum-gratuity. It is not in dispute that the petitioner had not opted for any scheme in terms of the 1979 or 1983 statute. Thus, the Court can safely presume and record that the late husband of the petitioner, in absence of any record to show that he gave his option for any particular scheme, has to be deemed to fall within the category of persons who are covered by the G.P.F.-cum-Pension Scheme.

4. At this stage, learned counsel for the State submitted that the petitioner's husband has already withdrawn C.P.F., which was not payable under the G.P.F.-cum-Pension Scheme. The argument is noted only for rejecting the same. It is immaterial whether payments under any head have been made to the person. The only thing relevant to be considered by the Court is the entitlement of the person in law. If, based on facts which have been verified and brought on oath by the University concerned reveals that the late husband of the petitioner, in law, is required to be given the benefit of G.P.F.-cum-Pension Scheme, mere receipt of money under any head would not change the situation or make him disentitled to such right. Here the Court would clarify that this would not mean that the petitioner is not supposed to return the contribution as is the requirement of law where in such cases, both, as per the scheme as



well as decisions of the Court, a person has to return the contribution which he has received and thereafter, the University or the concerned authority has to make payment as per the G.P.F.-cum-Pension Scheme.

5. At this stage, again there is a slight technicality involved, inasmuch as, now upon carving out of Dr. Rajendra Prasad Central Agricultural University in the year 2016, all past liabilities which were to be borne by the previous erstwhile University are to be paid by the State Government though through Dr. Rajendra Prasad Central Agricultural University.

6. After hearing learned counsel for the State and Dr. Rajendra Prasad Central Agricultural University, the University from its records shall make the calculation with regard to the entitlement of the petitioner under the G.P.F.-cum-Pension Scheme and would also indicate in such calculation as to what amount has been taken by the petitioner or her late husband under any head, which shall be adjusted from the amount payable to the petitioner. Such figure shall be communicated to the State within one month from today. Upon receipt of the same, the State authorities shall ensure that the amount is released within four weeks to the University, which in turn shall be paid to the petitioner within four weeks from the receipt of the same. It goes without saying that



payment should be made to the petitioner, shall be up-to-date, including arrears. Thereafter, regular monthly pension shall be paid to the petitioner till her lifetime in accordance with law and as per the Scheme of the Statute/State Government. It goes without saying that the calculation to be made by Dr. Rajendra Prasad Central Agricultural University shall be on the basis of the records available with them relating to the College in question.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

