

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 4531 of 2018**

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Bhikha Devi, W/o Late Vijay Pandit, resident of Mohalla/Village- Sahebganj (Sarobar Lane), Post Office- Sahebganj, Police Station- University, District- Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Bihar, Patna.
2. The Principal Secretary, Department of General Administration, Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The Accountant General, Bihar.

.... .... Respondent/s

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**Appearance :**

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|----------------------------|---|---------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Avinash Kumar and<br>Mr. Krishna Chandra, Advocates |
| For the State              | : | Mr. Manish Kumar, G.P. 4                                |
| For the Accountant General | : | Mr. Arun Kumar Arun and<br>Mr. Atul Anand, Advocates    |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 19-06-2018**

Heard learned counsel for the petitioner; State and  
  
Accountant General.

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

*“ i. For issuance of an appropriate Writ/ Writs, direction/ directions in the nature of **certiorari** or writs, order or Orders for quashing the Office Order as contained in Memo No. – 1260 dated 21.11.2017 by which the claim of family pension made in compliance of the Order dated 27.07.2017 passed in L.P.A No.-1173/2016 has been rejected by the Divisional Commissioner, Bhagalpur Division on the ground that the requisite records are not available in the office, while contrary stand was taken by the respondents in the earlier round of*



*litigation for not considering the claim, which was interfered with by the Hon'ble Division Bench, and direction was issued to consider the claim of family pension as right to receive family pension is a recurring right accruing every month when the pension is denied and accordingly, the claim for family pension cannot be rejected on the ground of delay, and consequent thereto, be further pleased to direct the respondents to fix and pay the family pension including interest over the delayed payment.*

*ii. For further kind indulgence of this Hon'ble Court to look into the matter and the concerned respondents may be directed to produce all connected records for perusal and passing an appropriate order.*

*III. For any other relief/ reliefs which the Hon'ble Court may grant in general interest that may be deemed appropriate and necessary in this case.*

3. Earlier such prayer was rejected in C.W.J.C. No. 2412 of 2011 and Civil Review No. 10 of 2015, was also dismissed on 06.04.2016, leading to filing of L.P.A. No. 1173 of 2016, by which the authorities were directed to consider the case for family pension, in accordance with law and take a decision within a period of three months. Pursuant to the same, the impugned order dated 21.11.2017 has been passed.

4. From the materials brought on record the counter affidavit filed on behalf of respondents, it appears that as per the records available with the authorities, the service of the late husband of the petitioner appears to be only temporary and that too for about six months for which no claim for family pension is tenable.



5. Learned counsel for the petitioner submitted that others who were also appointed at the same time along with the petitioner in the establishment concerned are still continuing and for that he has also asked for relevant information under the Right to Information Act but the same has not been provided to him.

6. Be that as it may, as from the materials on record, the authorities have been able to justify their stand that the nature of job of the husband of the petitioner was temporary, the Court in the present jurisdiction under Article 226 of the Constitution of India is unable to interfere in the matter as the facts are highly disputed and contested. Thus, the writ petition stands disposed off with liberty to the petitioner to agitate the matter, if she so desires, before the appropriate forum, in accordance with law, where she will have an opportunity to get a declaration on facts after leading evidence.

7. It is made clear that the Court has not expressed any opinion on the merits of the matter.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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