

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20316 of 2016

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Manoj Kumar, Son of Late Surendra Ram, resident of Mohalla - Vidyapati Colony,
P.S. Kotwali, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Higher Education Department, Old Secretariat, Patna
3. The Vice - Chancellor, Patna University, Patna
4. Registrar, Patna University, Patna
5. Principal, College of Arts and Crafts, Patna University, Vidyapati Marg, Patna
6. Sectional Officer, Account and Provident Fund Budge, Patna University, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 25-04-2018

Heard learned counsel for the petitioner; State and Patna
University (hereinafter referred to as the 'University').

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

“ (A) For direction to make payment of 1/3rd amount of family pension, gratuity, Provident fund, group insurance and leave encashment to the petitioner which is due against his late father Surendra Ram, the said 1/3rd amount were withheld by the respondents as the share of Sri Sanjay Kumar, eldest son of Late Surendra Ram (who is missing brother of the petitioner since 1997).

(B) For grant of any other consequential



relief/reliefs for which the petitioner may be found entitled there too under the facts and circumstances of this case.”

3. The brief facts of the case are that the petitioner's father Surendra Ram was an employee under the University, who also died in harness on 25.01.2003. He had three sons, including the petitioner, Sanjay Kumar and Bablu Kumar. However, as Sanjay Kumar had gone missing in the year 1997 for which it appears that the father of the petitioner had also informed the local police station and the Superintendent of Police, City, Patna, but he could not be traced out. As the mother of the petitioner also died on 28.11.2010 but prior to that, she had moved this Court in C.W.J.C. No. 14153 of 2010 for payment of death-cum-retiral benefits in which by order dated 01.09.2010, the Court gave liberty to file fresh representation before the Registrar which was required to be disposed off within a fixed period. However, the entire dues were not paid. Thereafter she died without any payment being made and thus the petitioner moved this Court in C.W.J.C. No. 21640 of 2011 in which by order dated 12.02.2013 a direction was given to make payment. Pursuant to the same, the petitioner and his brother Bablu Kumar were paid 1/3rd of the dues each and 1/3rd was withheld by the University for Sanjay Kumar on the ground that unless he came forward to receive the same



or gave any document for making such payment to the petitioner or any other person, the same could not be released. The petitioner has now moved this Court for payment of such remaining 1/3rd dues on the ground that it is the dues of his late father to which he and his brother Bablu Kumar are entitled to receive as the third brother Sanjay Kumar is untraceable since the year 1997.

4. Learned counsel for the petitioner submitted that once the father of the petitioner had already informed the police with regard to Sanjay Kumar having gone missing in the year 1997 and since then he not having returned, the presumption being that he is no more alive, the remaining dues are required to be given to the petitioner and Bablu Kumar. It was further submitted that Bablu Kumar has already been granted compassionate appointment under the University and, thus, both the brothers can also give an undertaking to the University that if in future Sanjay Kumar comes forward and makes a claim for money, they would be liable to make good the same.

5. Learned counsel for the State and University submitted that since there were no official documents to show that Sanjay Kumar is dead, they are constrained from making payment. However, it was submitted that if the petitioner and his brother Bablu Kumar give undertaking of making good any loss the University will not suffer in future if Sanjay Kumar comes and raises a claim, the



University would not averse to releasing such payment.

6. Having regard to the fair stand taken by learned counsel for the University, the writ petition stands disposed off with a direction to the Registrar of the University to make payment of the remaining 1/3rd amount to the petitioner and his brother or to any one of them, as may be agreed between them, upon giving an undertaking by both of them, that if in future Sanjay Kumar appears before the authorities and payment of such amount is required to be made to him under law, they shall pay the amount. The same be done within one month from the date of production of a copy of this order before the Registrar (respondent no. 4).

(Ahsanuddin Amanullah, J)

Anjani/-

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