

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1295 of 2019

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Jayanti Devi Late Manoranjan Singh, C/o Navin Nishchal, Resident of
Indraprasth Colony, Shyamal Das Lane, Ishanchak, Bhagalpur- 8120001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Rural Works Department, Bihar, Patna.
5. The Secretary, Finance (Personal Claim Fixation Cell) Department, Government of Bihar, Patna.
6. Account General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath, Adv.

For the Respondent/s : Mr. Manoj Kr. Ambastha (SC26)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 23-01-2019

Heard the learned counsel for the parties.

2. The petitioner, who is the wife of the
deceased employee who had served as Assistant Engineer in
Road Construction Department, Govt. of Bihar, Patna has



approached this Court for the following reliefs:-

(i) For commanding the respondents to pay the petitioner the post retiral benefits accruing in favour of her deceased husband along with their respective arrears and penal interest from the date the husband of the petitioner was legally entitled for, which have not been paid even after successive representations before all concerned after his retirement/death from the post of Assistant Engineer.

(ii) Further for a direction upon the respondent Road Construction Department to release Rs. 5,00,682/-, the amount recovered from the deceased husband of the petitioner by the Department which is lying in the form of term deposits with the State Bank of India as per the direction of the Hon'ble Court vide its order dated 29.08.2006 passed in CWJC No. 14157 of 2004.

(iii) Further to grant monetary benefit of 1st and 2nd A.C.P. to the deceased husband of the petitioner, who had worked for almost 36 years and superannuated on 31.12.2000 while working as Assistant Engineer, Road Construction Department, Government of Bihar, Patna.

(iv) To revise the pension of deceased husband of the petitioner Late Manoranjan Singh, who superannuated on 31.12.2000 while working as Assistant Engineer, Road Construction Department, Government of Bihar, Patna.



(v) To pay Rs. 5,00,682/- along with compound interest from the date it was recovered from the husband of petitioner till it is paid to the petitioner.

(vi) To revise the family pension of petitioner.

(vii) To grant statutory interest on all arrears, payable to the petitioner.

(viii) To grant penal interest as the petitioner is widow and she has been deprived from admissible amount of family pension since 2009.

(ix) To pass any other order/orders, in the background of the facts and circumstances of present case.

3. It is the case of the petitioner that while her husband was serving the Road Construction Department, Govt. of Bihar and was posted from one station to another, there was some delay in taking over of the charge and later it was discerned that the materials worth Rs. 5,00,000/- was found short at Sheikhpura Section-2 where the husband of the petitioner was posted.

4. When the process of recovery of the aforesaid amount was initiated by the Department, a Bench of this Court in C.W.J.C. No. 7951 of 2006 directed the Engineer-



in-Chief of the Department to conduct regular enquiry by giving opportunity to the husband of the petitioner to defend himself and the order, directing for recovery of the amount, was stayed.

5. Later, in a slipshod manner, a punishment in the nature of recovery of Rs. 5,00,682/- from the salary of the petitioner was passed by order dated 28.10.1998.

6. The husband of the petitioner, therefore, challenged the aforesaid order before this Court, but the same was permitted to be withdrawn for filing a statutory appeal, which was directed to be disposed off within a stipulated period of three months.

7. Since the statutory appeal which was filed by the husband of the petitioner could not be disposed off as directed by a Bench of this Court, the husband of the petitioner again approached this Court *vide* C.W.J.C. No. 14157 of 2004, wherein this Court, after quashing the punishment/recovery order dated 28.10.1998, directed the Department to deposit Rs. 5,00,682/- in a term deposit scheme in any Nationalized Bank within a period of one



month from the date of passing of the order and, thereafter, subject the husband of the petitioner to an enquiry under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, 1930.

8. The learned counsel for the petitioner has submitted that though this order was complied with, but with a delay and only after a contempt petition was filed by the husband of the petitioner. Thereafter, charges were framed against the husband of the petitioner, but the enquiry could not be concluded as the husband of the petitioner died during the pendency of the proceedings.

9. In the aforesaid circumstances, the petitioner, who is the wife of the deceased employee, has approached this Court for a direction to the respondent authorities to return the aforesaid amount, which was deposited by the Department in a Nationalized Bank with the interest which has accrued up-till-date and for other benefits which would have accrued to the deceased employee.

10. Some of the prayers made in the writ petitions are relatable to post retiral benefits for which this



Court is not holding the roster; nonetheless, considering the fact that the primary demand of the petitioner is for return of the amount which was deposited by the Department pending conclusion of the departmental proceeding against the employee and such departmental proceeding not being completed because of the death of such employee, the amount, so deposited, ought to be returned to the next kith and kin/heir of the deceased employee, this Court is of the view that a decision in that regard ought to be taken by the authorities without any delay.

11. This Court has further been informed that several representations have been filed before the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna (respondent No. 1) but till date, no order has been passed and the representations of the petitioner have not been paid heed to or acted upon.

12. In the aforesaid circumstances, this Court directs that in the event of the petitioner filing a fresh representation within a period of four weeks from today with all facts along with the copy of this present order,



respondent No. 1, viz., the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna shall dispose off such representation after looking into the entire aspect of the matter within a period of six weeks from the date of filing of such representation.

13. In case, the petitioner feels aggrieved by the order passed by the respondent No. 1, she will have the liberty to approach this Court again.

14. With respect to other retiral benefits accruing to the deceased employee which have been claimed in the present writ petition, the petitioner has the liberty to agitate the same in a separate petition before an appropriate forum.

15. With the aforesaid direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.01.2019
Transmission Date	N/A

