

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1503 of 2017

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1. Savita Kumari, wife of Late Raghuvansh Sharma
 2. Amrita Kumari, daughter of Late Raghuvansh Sharma
 3. Varun Goswami, son of Late Raghuvansh Sharma
 4. Abhishek Ranjan, son of Late Raghuvansh Sharma
- All residents of D/90, Police Colony, Anisabad, P.S.-Gardanibagh,
District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Commissioner, Patna.
3. The District Magistrate, Patna.
4. The District Accounts Officer, Patna.
5. The Addl. District Magistrate, Naxal, Patna.
6. The Sub Divisional Officer, Paliganj, Patna.
7. The Circle Officer, Paliganj, P.S. - Paliganj, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rama Kant Sharma, Sr.Adv
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 07-01-2019

The petitioners at the moment are wife, daughter and sons of late Raghubansh Sharma, the original petitioner, who had preferred the present writ petition.

2. Late Raghubansh Sharma, after a Departmental



Proceeding initiated against him with respect to several charges, was dismissed from service by order dated 13.02.2014 passed by the District Magistrate, Patna (respondent No. 3). The aforesaid Late Raghubansh Sharma appealed against the aforesaid order of dismissal before the Divisional Commissioner vide Service Appeal No. 381 of 2014. The appeal was allowed to the extent that the order of dismissal was set aside and the matter was remanded to the District Magistrate, Patna for passing a fresh order in accordance with law after taking into account the facts submitted by late Raghubansh Sharma with respect to his tenure as a *Nazir* in the Collectorate for the relevant period. Because of some confusion in the order of the District Magistrate, there was a clarification by the Divisional Commissioner that the decision of the District Magistrate ought to be based on the enquiry report with respect to the embezzlement of the funds or the maintenance of the records of the Collectorate.

3. Though the writ petition is replete with paragraphs dealing with the representation made by the



erstwhile writ petitioner before the District Magistrate but as the situation stands today, during the pendency of the enquiry conducted by the District Magistrate, Patna after remand of the case to him, aforesaid Raghubansh Sharma died, compelling his widow, daughter and sons to get themselves substituted.

4. From the counter affidavit, it appears that the first audit report gave a clean-chit to the husband of the petitioner No. 1, finding that no money was embezzled and that if at all the employee could have been faulted with, it could have been only for the late submission of the funds in the concerned Treasury.

5. The District Magistrate, Patna was not satisfied with the aforesaid report and came to the conclusion that the enquiry report was based on practically no document which would have been necessary for coming to any correct conclusion.

6. Since the matter was being delayed, late Raghubansh Sharma had approached this Court seeking an early/expeditious conclusion of the proceedings by the



District Magistrate, Patna. Unfortunately as has been stated in the previous paragraphs, the employee died.

7. Several months have passed thereafter but still the proceedings have not been concluded on the lame plea that the Officers of the Audit Department are still at work.

8. In the counter affidavit, the District Magistrate has not even chosen to intimate to this Court as to by what time such enquiry shall be completed and any order shall be passed.

9. Mr. Rama Kant Sharma, learned senior counsel appearing for the petitioners has submitted that for the apathetic attitude of the concerned respondents, the widow of the employee is almost on the brink of starvation and is also not in a position to perform her pious obligation towards the family in the event of death of her husband, of marrying her daughter who is of the marriageable age.

10. Under such circumstances, it has been prayed that the respondent authorities be directed to conclude the proceedings and pending the proceedings, necessary orders be passed for giving the undisputed dues including the



pensionary benefits of the late employee to the petitioner No. 1 so that she could perform the family obligations in the absence of her late husband.

11. Considering the aforesaid facts as also taking into account that in the first round of audit enquiry, no fault was found with the petitioner (late Raghubansh Sharma) and after the death of the employee, but for analysis of the documents, no further enquiry could be conducted and in view of the provisions contained in Section 11 (2) of the Bihar Civil Service (Classification, Control and Appeal) Rule, 2005, it is held that the District Magistrate, Patna would be under an obligation to clear and pay the dues of the late employee (husband of petitioner No. 1) within a period of one month.

12. With respect to the disputed amount, which is alleged to have been embezzled, enquiry shall be concluded within a period of three months from the date of production/receipt of a copy of this order and a final decision in that regard shall be taken.

13. Needless to state that if in the final opinion, the



District Magistrate, Patna (respondent No. 3) is of the view that nothing is due against the employee (late Raghubansh Sharma), the entire dues shall be cleared within a period of fifteen days thereafter.

14. With the aforesaid observations and directions, the writ petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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