

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11416 of 2017

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Anjali Kuwar, Wife of Late Durgesh Kumar, D/o - Shree Baid Nath Kuwar,
Resident of Village - Basantpur Tola Bara, P.S. - Muffasil, Motihari, District -
East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Patna.
2. The Chief Engineer, Road Construction Department, Patna.
3. The Superintending Engineer, Road Construction Department, Road Division, Motihari.
4. The Executive Engineer, Road Construction Department, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate
For the Respondent/s : Mr.Syed Iqwal Ahmad, SC-20

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

4 21-05-2020 Heard Mr. Krishna Kant Singh, learned counsel for

the petitioner and Mr. Syed Eqwal Ahmad, learned counsel for

the State.

The present writ application has been filed for the
following reliefs:

“(i) To issue a writ in the nature of
mandamus to direct the respondents to pay the entire
dues amount of post Retirement-cum-Death benefit
accrued due to death on 03.05.2016 of husband of
petitioner who died during his ongoing service period.
The dues are falling in the head of Gratuity, P.F.,
Pension etc.



(ii) To direct the respondents to supply the calculation chart of dues amount falling in different heads arising out of the post Retirement-cum-Death benefit of the husband of petitioner.

(iii) To restrain the respondents from harassing the petitioner by not paying the legitimate grievance of post Retirement-cum-Death benefit accrued due to death of husband of petitioner.

(iv) To grant any other reliefs for which petitioner is entitled to.”

Mr. Krishna Kant Singh, counsel for the petitioner has admitted that during the pendency of the writ application, the petitioner has been paid GIS, earned leave and has been offered appointment on compassionate basis. The only grievance which now remains to be redressed is non-payment of NPS amount, amounting to Rs. 1,87,814/-.

Counsel appearing on behalf of the State with reference to counter affidavit submits that the petitioner was asked to submit Succession Certificate, in view of the fact that the name of the mother of the deceased employee was mentioned as nominee.

In reply, Mr. Krishna Kant Singh submits that the statement as to nominee was made before the marriage and after the marriage, the petitioner being the wife/widow is entitled to payment of National Pension Scheme amount i.e. Rs. 1,87,814.



He further submits that the State has already recognized the legitimate claim of the petitioner by offering her compassionate appointment and in that view of the matter, there is no point in keeping the amount of NPS i.e. Rs. 1,87,814/- pending.

Considering the peculiar facts and circumstances of this case and also the fact that the husband of the petitioner died on 03.05.2016, the Court directs the respondent no3, the Superintending Engineer, Road Construction Department, Road Division, Motihari to ensure payment of Rs. 1,87,814/-, calculated as payable under NPS.

The entire exercise in this regard must be completed by the respondents, if not already completed, within a maximum period of one month from today and shall ensure payment of the aforesaid amount within a period of one month thereafter, failing which the aforesaid amount will carry interest at the rate of 9% per annum, which shall be realized from the pocket of respondent Superintending Engineer and Executive Engineer (respondent nos. 3 and 4).

If any other amount of the post retiral-cum-death is admissible, the same must be calculated and paid to the petitioner within the aforesaid time indicated hereinabove.

With the aforesaid, the writ application stands



disposed of.

(Anil Kumar Upadhyay, J)

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