

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12095 of 2017

Chandrakala Devi, Wife of late Raghuveer Paswan, Resident of Village-+ P.O. Saisai, P.S. + District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Engineer-in-Chief-Cum- Special Secretary, Public Health Engineering Department, Bihar, Patna.
4. The Chief Engineer, Department of Public Health Engineering (Mechanical), Bihar, Patna.
5. The Zonal Chief Engineers, Purnea Zone, Purnea.
6. The Superintendent Engineer, Public Health Engineering Circle- Saharsa.
7. The Executive Engineer, Public Health Division, Saharsa.
8. The Sub-Divisional Officer-cum-Assistant Engineer, Public Health Engineering, Sub- Division- Saharsa
9. The District Magistrate, Saharsa.
10. The District Provident Fund Officer, Saharsa.
11. The Treasury Officer, Saharsa.
12. The Accountant General (A & E), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Siyaram Pandey, Advocate Mr.Ram Ganesh, Advocate
For the State	:	Mr.S.Raza Ahmad, AAG-5 Mr.Alok Ranjan, AC to AAG-5
For Accountant General	:	Mr.Ranjan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 21-05-2020 Heard the parties through the virtual court proceeding.

Petitioner has prayed for the following reliefs :

1. Full amount of Family Pension and its arrear.



2. Full amount of gratuity.
3. Full amount of leave encashment of 300 days.
4. Amount of GPF with interest.
5. Amount of CPF.
6. Arrear of salary of revert period with interest.
7. Arrear of difference of salary and difference of family pension with interest.
8. Interest at the rate of 12% on delayed payment of all the above stated heads by granting due promotions to the husband of the petitioner as per recommendation of 6th pay commission revision.

Learned counsel for the petitioner submits that earlier petitioner had filed the writ petition for payment of the retiral dues vide C.W.J.C. No.4987 of 2015, which was dismissed on 08.12.2015 as follows :

“ Heard learned counsel for the parties.

At the very outset, the Court is shocked to notice that the case was listed out of turn hearing on the basis of motion slip filed by learned counsel for the petitioner, Mr. Siyaram Pandey on 02.12.2015 in which a categorical statement was



made that the husband of the petitioner died in harness on 22.03.2009 but till date nothing is paid to the petitioner nor even the pension is fixed. Thus, in view of the fact that nothing was paid to the widow petitioner, the Court had heard the matter on priority basis.

Upon perusal of the record, it transpires that an amount of Rs.63,507/- has been paid towards G.P.F., Rs.15,317/+ Rs.16,360/- for Group Insurance, Rs.7,784/- on account of Leave Encashment and further Rs.1,72,807/- has also been deposited in her account as difference of pay amount.

From the aforesaid, it is clear that substantive payment has been made to the petitioner and still a statement was made that nothing has been paid which is a brazen attempt to mislead the Court by stating absolutely wrong facts for which the Court may have passed appropriate orders but leaves the matter without doing so.

However, taking note of such conduct, the Court is not inclined to interfere in the matter under its extraordinary prerogative writ jurisdiction and accordingly, the writ petition stands dismissed.”

Learned counsel for the petitioner submits that the



order dated 08.12.2015 was passed on technical ground, it is not dismissed on merit, therefore, petitioner has filed the present writ petition. In the present writ petition, petitioner has prayed for the payment of retiral benefit on the length of the service of the petitioner, which is not counted by the concerned authority. He further submits that the duration of the service rendered in work charge establishment by the deceased husband of respondent no.3 before induction in regular establishment has to be added to the total duration of his service making it pension entitling the respondent no.3 to family pension and other post retiral dues of the deceased.

On the contrary, learned counsel for the State submits that the present writ application is not maintainable because earlier the petitioner has filed the writ petition for the same relief which was dismissed by this Hon'ble Court by the order dated 08.12.2015. Petitioner has not taken any leave for the Hon'ble Court for filing the present writ petition and learned counsel for the State has relied upon the judgment of this Hon'ble Court reported in **1987 PLJR 1090 paragraphs 24 to 26** and also relied upon the judgment of the Apex Court reported in **2005(4) PLJR SC 7 paragraphs 9 and 10.**



Considering the submissions made by the parties, this writ application is disposed of with the direction to the petitioner to file the detailed representation before the concerned authority within two months. Thereafter, the respondents shall pass the reasoned and speaking order within two months from the date of receipt/production of a copy of this order. It is needless to mention here that the respondent authority should be solely responsible for non-compliance of the order passed by this Court within the time as aforesaid.

(Anjani Kumar Sharan, J)

Nasimul/-

U			
---	--	--	--

