

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17799 of 2019

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Pramod Kumar Singh Son of Late Navratan Singh Resident of Village-
Ghusia Kalan, P.S.- Vikramganj, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Principal Secretary Department of Health, Govt. of Bihar, Patna.
3. The Director Health Services, Govt. of Bihar, Patna.
4. The Regional Additional Director Health Services, Patna Division, Patna.
5. The Civil Surgeon-cum- Chief Medical Officer Rohtas at Sasaram.
6. The Accountant General Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vipin Kumar Singh
For the Respondent/s : Mr.Mujtaubl Haque (GP-12)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 17-06-2020

Heard Shri Vindhyachal Singh, learned counsel
appearing for the petitioner, Shri Manish Kumar, A.C. to G.P.-12
& Shri Prabhat Ranjan, learned counsel appearing for the
Accountant General.

The petitioner herein, who is the son of the deceased
employee of the respondents has approached this Court by way
of the present writ petition for a direction upon the respondents
to make payment of the entire death cum retiral dues including
the salary of the working period of the mother of the petitioner
herein along with the statutory interest, who died in harness on



16.06.2018 while working on the post of A.N.M. Primary Health Centre, Karakat, Rohtas at Sasaram. The petitioner has also prayed for quashing of the letter no. 77 dated 26.04.2019 issued under the signature of the In-Charge, Medical Officer, Primary Health Centre, Karakat, Rohtas at Sasaram whereby representation of the petitioner has been rejected, as far as making payment of the death cum retireal dues is concerned, on the ground that the certificate of the mother of the petitioner has been found to be incorrect, upon enquiry made from the Bihar School Examination Board, report whereof was received by letter dated 20.12.2018. The learned counsel for the petitioner has submitted that the petitioner had also earlier moved this Court for payment of death cum retiral dues in view of the communication of the Regional Additional Director, Health Services, Patna contained in Memo dated 06.12.2018, whereby and whereunder direction was given to the Civil Surgeon cum Chief Medical Officer, Rohtas at Sasaram to make payment of all the death cum retiral dues pertaining to the mother of the petitioner. It is submitted that a coordinate Bench of this Court by an order dated 05.03.2019 had directed the In-Charge Medical Officer, Primary Health Centre, Karakat, Rohtas at Sasaram to dispose off the representation of the



petitioner by a speaking order. It is submitted that thereafter the impugned order dated 26.04.2019 has been passed. It is the submission of the learned counsel for the petitioner that without initiation of any departmental proceeding, the respondents cannot hold the appointment of the mother of the petitioner to be illegal and moreover since the petitioner has already died, no proceeding under the law can be conducted behind the back of the deceased mother of the petitioner, hence the petitioner has become entitled to payment of not only the death cum retiral dues of his mother but also arrears of salary. In this connection, the learned counsel for the petitioner has relied upon the following judgments:-

- 1. Judgment dated 17.09.1998 rendered by the Hon'ble Apex Court in Civil Appeal No. 4858 of 1998 (Basudeo Tiwary vs. Sido Kanhu University & others);*
- 2. A judgment rendered by a learned Division Bench of this Court dated 07.03.2018 passed in L.P.A. No. 1582 of 2015 (The Director, Department of Agriculture & ors. vs. Kumkum Devi);*
- 3. A judgment dated 23.01.2003 passed by a coordinate Bench of this Court in CWJC No. 1646 of 2000 (Ravi Kumar Verma vs. The Bihar State Electricity Board & Ors);*
- 4. A judgment rendered by the coordinate Bench*



of this Court dated 18.05.2018 in CWJC No. 8484 of 2017 (Reema Devi vs. The State of Bihar & Ors.)

5. A judgment dated 12.09.2019 passed by this Court in CWJC No. 3349 of 2018 (Kaushalya Devi Vs. The State of Bihar & Ors.).

Per contra, the learned counsel for the respondent-State has submitted that the petitioner is not the nominated son/person in the service book of his mother Gyanti Devi, hence the present writ petition at the behest of the petitioner is not maintainable. It is further submitted that a sum of Rs. 2,40,170/- has already been paid under the head of Group Insurance to one Vinod Kumar, who is the nominated son of the deceased. It is further submitted that the petitioner died in harness on 18.06.2017, and subsequently after her death it has transpired that the certificate on the basis of which she was appointed, is incorrect and she had not appeared in matriculation examination in the year 1997. Nonetheless, the learned counsel for the State has admitted that since no departmental proceeding was ever initiated during the life time of the mother of the petitioner, now at this juncture after her death the services of the petitioner cannot be terminated, in view of the well settled law, as referred to hereinabove in the preceding paragraph, hence it is submitted that the respondents are ready



to pay the outstanding death cum retiral dues of the mother of the petitioner, however, to the real nominated legal heir of the deceased Gyanti Devi.

Accordingly, the present writ petition stands allowed, the impugned order dated 26.04.2019 passed by the In-Charge Medical Officer, Primary Health Centre, Karakat at Rohtas stands quashed and the respondents are directed to make payment of the outstanding death cum retiral dues as also the arrears of salary of the deceased Gyanti Devi to her legal & nominated heirs within a period of eight weeks from today.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	27.06.2020
Transmission Date	N.A.

