

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2192 of 2019

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Chanaraiti Devi Wife of Late Rajesh Kumar Resident of Village- Amnabad
PS- Bihta, District-Patna. At present resident of Tata Colony Madhopur PS-
Maner, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Education Department
Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar,
Patna.
3. The Accountant General, Bihar, Patna.
4. The District Education Officer, Patna.
5. The District Programme Officer, Establishment, Patna.
6. The Treasury Officer, Patna.
7. Radhika Devi, Wife of Late Rajesh Kumar, Resident of Village Amnabad,
PS- Bihta District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Hitesh Suman, Advocate
For the State	:	Mr. Prabhakar Jha, GP 27
For the respondent No. 7:	:	Mr. Ram Prabodh Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 26-06-2020

The matter has been heard *via* video conferencing due
to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Hitesh Suman, learned counsel for the
petitioner; Mr. Prabhakar Jha, learned GP 27 for the State and Mr.
Ram Prabodh Thakur, learned counsel for respondent no. 7.

3. The petitioner has moved the Court for the following
reliefs:



“1. That by this writ application the petitioner most humbly prays to this Hon’ble Court for issuance of any appropriate writ or direction to the respondent state and to the authorities directing them to release the following retiral benefits of the deceased husband to the petitioner.

(A) The amount under General Provident Fund.

(B) The amount under heading of earned leave.

(C) Gratuity.

(D) The amount under Group Insurance head.

(E) The Fixation of Family Pension w.e.f. July 2017.

(F) Arrear of Family Pension.

(G) Medical Allowance.

(H) And an appropriate direction be issued to the respondents for payment of Family Pension with effect from July 2017 because nothing has been paid to the petitioner though the husband of the petitioner died on 02.07.2017 from the post of peon/orderly from the T. P. High School, Bihta Patna.

Since the petitioner has not been paid any amount mentioned above even after much delay of the death of the husband of the petitioner, so the petitioner is entitled to be compensated by way of penal interest on all the arrears of retiral benefits.

(I) For issuance of any other appropriate writ, writs, order, orders, direction, directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case”

4. Learned counsel for the petitioner submitted that though she is the second wife of the deceased employee but her minor children are entitled to half of the family pension payable. It was further submitted that with regard to the remaining dues, all



the parties are entitled to their respective share, as per the Hindu Succession Act.

5. Learned counsel for the State submitted that the authorities would have no difficulty in paying the parties, as per their entitlement in law.

6. Learned counsel for respondent no. 7, who is the first wife, submitted that she is only entitled to family pension in law. However, she did not dispute the legal position that minor children from the second wife are also entitled to 50% of the family pension.

7. At this juncture, when the Court called upon learned counsel for the petitioner and respondent no. 7 to disclose their stand with regard to them being amenable to apportionment of family pension between the first wife and the minor children of the second wife and with regard to the remaining dues being distributed among all the heirs as per their entitlement in law, both readily agree to the same.

8. Learned counsel for the State also agreed with such arrangement.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off with a direction to the respondent no.



5 to ensure that 50% of the family pension is paid to respondent no. 7, the first wife and the rest 50% to the petitioner, for and on behalf of her minor children. With regard to the remaining dues, the respondent no. 5, with the assistance of the petitioner and respondent no. 7 shall work out the exact formula/amount relating to apportionment of such dues as per the Hindu Succession Act. The parties shall cooperate with respondent no. 5 in such exercise.

10. Let the same be completed within six weeks from today. Upon the formalities being completed, the respondent no. 5 shall ensure that all admissible dues of the parties are paid to them expeditiously and latest within three months from the date of them completing all the formalities.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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