

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1662 of 2019

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Bibi Nurjahan, female, aged about 60 years, wife of late Md. Nazimuddin,
resident of village- Salempur, Post Office- Mohiuddinpur, Police Station-
Jagdishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary (Education), Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Regional Education Deputy Director, Bhagalpur Division, Bhagalpur.
5. The District Programme Officer (Establishment), Education Department, Bhagalpur.
6. The Block Education Officer, Nathnagar, Bhagalpur.
7. The Treasury Officer, Bhagalpur.
8. The Accountant General, Bihar, Birchand Patel Marg, Patna.
9. The Circle Officer, Jagdishpur Anchal Jagdishpur, District- Bhagalpur.
10. Gulnaz Bano, wife of late Md. Nazimuddin, resident of village- Salempur, Post office- Mohammadpur, Police Station- Jagdishpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Najmul Hodda, Advocate
For the State	:	Mr. Mukund Mohan Jha, AC to GP 27
For the Accountant General	:	Mr. Vivek Anand Kumar, Advocate
For the Respondent No.10	:	Mr. Praveen Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-01-2021

Heard Mr. Md. Najmul Hodda, learned counsel for the
petitioner; Mr. Mukund Mohan Jha, learned AC to GP 27 for the
State, Mr. Vivek Anand Kumar, learned counsel for the
Accountant General and Mr. Praveen Kumar, learned counsel
for the respondent no. 10.



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

- “I. For issuance of a writ of mandamus or any other appropriate writ, order or direction commanding the respondent authorities for grant of full family pension in favour of the petitioner as her husband died during the tenure of his service and she is legal 1st wife of the deceased employee namely Md. Nazimuddin whereas 2nd wife private respondent no. 10 Gulnaz Bano already is in govt. service on the post of regular Assistant Teacher.*
- II. For issuance of a writ of mandamus or any other appropriate writ or direction commanding the respondents authorities to pay death cum retiral dues in favour of the petitioner as per the rule.*
- III. For any other appropriate relief or reliefs for which the petitioner may deemed entitle.”*

3. The matter has been adjourned for time to time and many affidavits have been filed by the parties. Ultimately, the Court finds that on the part of the petitioner as well as the respondent no. 10, there have been instances where both have not correctly stated the facts before various authorities for taking benefits, like widow pension and policy with the Life Insurance Corporation of India. In such background, the Court in its extraordinary, prerogative and discretionary jurisdiction under Article 226 of the Constitution of India, is unable to come to a definite conclusion, based on facts, with regard to the legal



position of the parties.

4. Thus, in the considered opinion of the Court, the stand of the authorities that both the parties may go before the Civil Court of competent jurisdiction to get a declaration with regard to their entitlement and proportion of the death-cum-retiral benefits of late Md. Nazimuddin, who died working on the post of the Assistant Teacher.

5. Accordingly, the writ petition stands disposed off with liberty to the parties to move before the Civil Court of competent jurisdiction with regard to declaration of their right as well as share in the death-cum-retiral benefits of late Md. Nazimuddin.

6. The authorities would be required to act in terms of the order of the Court in such proceeding.

(Ahsanuddin Amanullah, J)

J. Alam/-

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