

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6632 of 2020

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Kaushalya Devi @ Most. Koshliya Devi W/o Late Umesh Chandra Mishra,
resident of Vill.- Singhpur (Navtoliya), P.O. Narayanpur, P.S.- , District-
Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Government of Bihar, Patna.
2. The Secretary, Department of Water Resources cum Chairman, Bihar State Construction Limited, Patna.
3. Bihar State Construction Corporation Limited through its Managing Director and its Head Quarter at Khwaja Imili, Anisabad, Patna.
4. The Managing Director, Bihar State Construction Corporation Limited, Office at Khwaja Imili, Anishabad, Patna.
5. The Secretary, Administration, Bihar State Construction Corporaiton Limited, Office at Khawja Imli, Anisabad, Patna.
6. The Additional Provident Fund Commissioner, Zonal Office, Employee Provident Fund Office, Bhavishyanidhi Bhawan, Near M.L.A. Flats, Patna-01.
7. The Regional Provident Fund Commissioner, Regional Office, Adampur Chowk, Bhagalpur- 812001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Choudhary, Advocate
For the Accountant General:		Dr. Anand Kumar, Advocate
For Respondent No.7	:	Mr. Prashant Sinha, Advocate
For the Respondent/s	:	Mr. Binod Kumar Sinha, AC to GP-8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 16-08-2021 Heard Mr. Anil Kumar Choudhary, learned counsel

for the petitioner, Dr. Anand Kumar, learned counsel appearing

for the Bihar State Construction Corporation Ltd. and Mr.

Prashant Sinha, learned Regional Provident Fund

Commissioner, Bhagalpur (Respondent No. 7) and Mr. Binod

Kumar Sinha, learned AC to GP-8 for the State through video



conferencing.

2. The petitioner has filed the present writ application for a direction to the respondent authorities to make payment of death-cum-retiral benefits of her husband including gratuity on account of the fact that husband of the petitioner died in harness on 6.5.1999.

3. Learned counsel for the Bihar State Construction Corporation Ltd. Refers to paragraphs 7 and 8 of the counter affidavits which are quoted hereinbelow:-

7” That it is pertinent to mention here that due to financial crunch in the Corporation, a Company Petition No.-720/2017 has been filed on direction of this Hon’ble Court, by the Answering Respondent in the N.C.L.T., Kolkata Bench, for winding up of the Corporation and an I.R. professional has already been appointed by the N.C.L.T., Kolkata Bench vide its order dated 16.10.2019 in Company Petition No.-720/2017, for winding up of the Corporation.

8. That it is pertinent to mention here that as per Section-14 of the Insolvency and Bankruptcy Code 2016, Moratorium has taken place and in such a circumstances the petitioner may be directed to lodge her claim before the I.R. Professional appointed by N.C.L.T., Kolkata Bench. In similar matter in L.P.A. No. -177/2018 vide its order dated 8.10.2018, a Division Bench of this Hon’ble Court has directed the



Petitioners/Appellants to approach the N.C.L.T. Kolkata Bench”.

4. Learned counsel for the Respondent No. 7 submits that though the petitioner has wrongly impleaded the Regional Provident Fund Commissioner, Bhagalpur, as a Respondent in this Case, but from perusal of paragraph-6 of the writ application it appears that husband of the petitioner was not receiving salary from September, 1993. Learned counsel further submits that the Employees Pension Scheme came into force in 1995 and in absence of the salary being paid to the husband of the petitioner by the concerned Corporation, the contribution towards pension fund of the petitioner must not have been deposited under the EPS Scheme, as such, the petitioner is not entitled to get any pension amount from Respondent No. 7.

5. Having heard learned counsel for the parties and taking into consideration the material on record, the fact that the matter is pending before the N.C.L.T., Kolkata Bench and the LPA Bench of this Court in similar matter as stated in paragraph-8 of the counter affidavit has directed to approach the NCLT, Kolkata Bench, this writ application is disposed of with a direction to the petitioner to approach before the NCLT, Kolkata, in accordance with law for redressal of her grievance.



6. With aforesaid observation and direction, this writ application is accordingly disposed of.

(Anil Kumar Sinha, J)

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