

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11383 of 2018

=====

Raj Kumari Devi, Widow of Late Uma Shankar Singh, R/o Village + P.O.-
Sirauna, P.S.- Shikarganj, District- East Champaran, at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Planning and Development Department, Govt. of Bihar, Patna
3. The District Magistrate-cum-Collector, East Champaran at Motihari.
4. The Deputy Development Commissioner cum Chief Executive Officer, District Board, East Champaran at Motihari
5. The Chairman, District Board, East Champaran at Motihari
6. The Sub- Divisional Officer, East Champaran at Motihari

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar -AAG-4

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 21-12-2021

Heard learned counsels for the respective parties.

2. In the instant petition, the petitioner has prayed for the following reliefs:

“That this is an application for issuance of an appropriate writ/writs, order/orders, direction/directions directing to the respondent authorities to pay the admitted due amount which is due lying before the authority concern because the husband of the petitioner was a peon the District Board, East Champaran at Motihari under the Respondent no.5 and was died due to severe disease in the service period in lack of proper treatment because due to stoppage of the salary he was



unable to move anywhere for better treatment which is still pending before the authority.”

3. Crux of the matter in the present petition is whether the legal representative of the deceased employee is entitled to arrears of salary from 16.02.2017 to 13.03.2018, which is due to the deceased employee.

4. Undisputedly, the deceased employee is stated to have remained absent from 16.02.2017 to 13.03.2018. During the intervening period, the deceased employee is stated to be submitted application for voluntary retirement on medical ground, the same was accepted on 13.03.2018. The petitioner has contended that acceptance of voluntary retirement dated 13.03.2018 was not communicated to the deceased employee.

5. Having regard to the fact that the deceased employee died on 16.03.2018 what remains is only three days of pay is to be paid to the legal representative of the deceased employee or not.

6. Undisputedly, the facts are that for the remaining unauthorized absence by the deceased employee during the period from 16.02.2017 to 13.03.2018, the respondents have not initiated any enquiry and concluded the same in holding that the deceased employee remained unauthorized absence was proved and further penalty order was passed.



7. On the other hand, the respondent has contended that “No Work No Pay” principle is applicable in the present case. Such a principle cannot be apprised for the reasons that “No Work No Pay” is required to be determined in an enquiry that too in a case of unauthorized absence.

8. In the present case, the deceased employee submitted voluntary retirement application on medical ground, which reveals that remaining unauthorized absence is beyond his control that he was suffering from certain illness.

9. In the light of these facts and circumstances and the fact that the respondents have not initiated enquiry and concluded for the alleged remaining unauthorized absence so as to hold that the deceased employee absence is unauthorized absence.

10. Consequently, the petitioner has made out a case so as to seek monetary benefits during the period from 16.02.2017 to 13.03.2018, the date on which voluntary retirement application was accepted by the respondents. The same shall be calculated and disbursed in favour of the petitioner within a period of two months from the date of receipt of copy of this order. The petitioner is entitled to interest at the rate of 8% per annum on the arrears amount in view of the Apex Court decision in the case of **Vijay L.**



Mehrotra Vs. State of Uttar Pradesh and others, reported in
(2001) 9 SCC 687.

11. The writ petition stands allowed.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.01.2022
Transmission Date	NA

