

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1252 of 2022

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Bhunti Mehtrani @ Bhunti Devi Wife of Late Madan Ram Resident of Anandpur, Ward No. 10, Jay Nagar, P.O. and P.S. Jay Nagar, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, New Secretariat, Patna.
2. The Executive Officer, Nagar Panchayat Jay Nagar, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Ranjan Kr. Pandey, Adv. with Mr. Ashutosh Kr. Jha, Adv.
For the Respondent/s	:	Mr. Subhash Prasad Singh, (Ga 3)
For the Nagar Panchayat :	:	Mr. Zaki Haider, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 09-01-2023 Learned counsel for the petitioner, counsel for the State and counsel for the Nagar Panchayat, Jay Nagar appeared.

The present case has been filed seeking relief(s) directing the respondents for fixation of the family pension of the deceased of the petitioner as per 6th pay Commission Report and arrear thereof and also direction to make dues, retiral benefits such as G.P.F., A.C.P. and M.C.P. encashment, provident fund etc of the deceased husband of the petitioner as per 6th pay Commission Report and arrear of salary of deceased husband of the petitioner as per 6th pay revision, since, 01.04.1997 to 31.12.2014 and admissible interest thereof total dues amount.

Counsel for the petitioner submits that husband of the petitioner is retired from the service of Nagar Panchayat, Jay Nagar with effect from 30.04.2016 as *Safai Mazdoor (Karmchari)*. The husband of the petitioner died on 02.09.2021. After death of the husband, the petitioner approached to the concerned authority and submit her representation and when there is no response, the present writ petition has been filed.

Counter affidavit on behalf of the Municipality has been received in which the Municipality has admitted the claim of the petitioner in paragraph 5 of its counter affidavit but submits that a letter in this regard has been sent to Deputy Secretary, Urban Development and Housing Department, Government of Bihar for fixation and approval of 5th and 6th pay revision scale of the deceased husband of the petitioner, Madan Ram (Annexure - A).

In this regard, certain queries were made from the Executive Officer, Nagar Panchayat, Jay Nagar (Annexure - C). Counsel also submits that entitlement of family pension of deceased husband of the petitioner is also pending before the Department (Annexure - D).

Counsel for the State submits that a separate counter affidavit has been filed on behalf of the respondent State in

which it has been categorically mentioned that the fixation of pay shall be subject to verification by the Urban Development and Housing Department, Government of Bihar. It has also been mentioned that for financial burden, State is not responsible. Counsel for the State has also attached the order of L.P.A. No. 960 of 2007 in its counter affidavit in which it has been held that Municipal Corporation is creation and under statute, it enjoys the autonomy and notwithstanding the control of the State Government upon them. The Parliament inserted Chapter 9 in the Constitution which deals with the function of the Corporation as well as manner in which it has to deal with the resources. It has also be mentioned that services of the employees of the Municipal Corporation in the State were not considerable till 1987. The scheme of C.P.F. appears to be in force. The pension Rules for municipality were framed in 1987. Rule 87 thereof provides that employee or the Corporation has the option either to remain in C.P.F. or to opt for pension under the Rule. In case, the employee opts for pension that would be paid to him. For proper and effective implementation of scheme, the municipal pension fund was created under Rule 12, 13 and 14. In the light of the above said backdrop and pleadings made, let the State Government is directed to verify the revision of

arrear salary of 5th and 6th pay revision within 4 weeks from today and communication be made in this regard to the Nagar Panchayat, Jay Nagar with regard to the petitioner and the Nagar Panchayat, Jay Nagar is directed to pay the differential amount of 5th and 6th pay revision as well as admissible dues to the petitioner 6 weeks thereafter.

Counsel for the Nagar Panchayat, Jay Nagar submits that in the light of the Rule framed for payment of pension, petitioner is not entitled for family pension.

With the aforesaid direction, the writ application stands disposed off.

(Dr. Anshuman, J.)

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