IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23150 of 2018

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1.1. Deepwali Prasad (Daughter) W/o Pandey Girija Shankar, Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.2. Anita Prasad (Daughter) W/o Vidyabhushan Prasad, Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.3. Ajit Kumar Sinha (Son) S/o Late Ramdeo Prasad Sinha, Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.4. Nikita Sinha (daughter) Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.5. Sunita Srivastav (Daughter) W/o Pradip Srivastav Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.6. Sangita Sinha (Daughter) W/o Viplav Kumar, Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.7. Sujit Kumar @ Sujit Sinha (Son) Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.8. Kavita Sinha (daughter) W/o Amrendra Sinha Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

1.9. Vijeet Sinha (Son) S/o Late Ramdeo Prasad Sinha, Mahadewa Road, Magahiya Toli, Arrah, Bhojpur, Bihar PIN Code - 802301.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue Department Govt. of Bihar, Patna.
2. The District Magistrate, Bhojpur Ara.
3. The Sub-Divisional Officer, Bhojpur, Ara.
4. The District Treasury Officer, Bhojpur, Ara.
5. The Accountant General, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Saurabh Kumar, Advocate.
For the State	:	Mrs. Surekha Kumari, AC to GP-18.
For respondent no.5	:	Mr. Prashant Ranjan, Advocate.
		Mr. Chandan Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
Date : 10-04-2023

Heard Mr. Saurabh Kumar, learned counsel appearing on behalf of the petitioner, Mrs. Surekha Kumari, learned AC to GP-18 and Mr. Prashant Ranjan, learned counsel assisted by Mr. Chandan Kumar for the respondent no. 5 – Accountant General.

2. Learned counsel appearing on behalf of the petitioner informs this Court that the retiral dues which were required to be paid to the petitioner on the heads of gratuity, G.P.F., leave encashment, fixation of pension, etc. have been paid during the life time of the original petitioner. However, the authorities have not taken note of the fact that the deceased employee had superannuated on 31.01.1986 from the post of Nazir (clerk) while he was posted at Sub-Divisional Office, Ara, Bhojpur. Petitioner is aggrieved that the entire dues have been calculated on the basis of last pay payable to the petitioner on the date of retirement on 31.01.1986 and thereafter the payment on account of different heads has been made after much delay. The pension of the deceased employee was also fixed after considerable delay without taking into account the benefit of pay revision from time to time. Learned counsel further informs this Court that the widow of the deceased-employee who is the original petitioner had deposited the entire defalcated amount which was alleged against the deceased employee in the year 2004 itself and thereafter only the payment of retiral dues has

been paid to the original petitioner. The law is well settled in this regard that in absence of any departmental proceeding initiated against an employee, no recovery can be made after retirement of the petitioner and the Apex Court has held that any recovery from the widow of the deceased employee is unwarranted. In these backgrounds, petitioner submits that the respondents are liable to make payment of differential amount on account of pension, gratuity, G.P.F., leave encashment and other retiral dues as applicable in the case of the deceased employee and the petitioner in view of the statutory circulars.

3. Learned counsel appearing on behalf of respondent nos. 2, 3 and 4 informs this Court that the deceased employee who died on 19.10.1995 was responsible for the amount which was allegedly defalcated by him and the defalcated amount was paid back by him in 2004. Learned counsel admits that no departmental proceeding was initiated against the petitioner thereafter.

4. Having considered the rival submissions of the parties, the grievance of the original petitioner in the writ petition is that the authorities are liable to make payment of differential amount of ancillary benefits including the fixation of family pension after giving due benefit of revised pay scale

which has been revised from time to time by the State Government. It is admitted case that no departmental proceeding was ever initiated against the deceased employee, however subsequent to the death of the deceased employee on 19.10.1995, original petitioner (widow of the deceased employee) was forced to deposit the alleged defalcated amount in the year 2004 and then only the concerned respondents took steps to make payment of retiral dues of the deceased employee and proceeded to fix the family pension. A supplementary counter affidavit has been filed in compliance of the order dated 27.02.2023 in which it has been stated that steps have been taken by the respondents to make payment of family disability pension after the death of the original petitioner. It has been specifically stated in Para-9 of the supplementary counter affidavit that till date the name of unmarried daughter of the deceased employee Nikita Sinha has not been joined in the existing P.P.O. No. S/111865 of the deceased employee and the family pension could not be transferred in the account of the substituted heir. The Specific statement has been made that the Accountant General, Bihar is solely responsible to make necessary rectification for granting family disability pension. In the present case, original petitioner who is wife of the deceased employee has already been paid pension on the basis of P.P.O. No. S/111865 issued with regard to payment of family pension. However, after her death she had left one unmarried disable daughter namely Nikita Sinha and she is entitled to receive the same. Steps are required to be taken to join her name in P.P.O. No. S/111865 for disbursement of family disability pension to the unmarried daughter of the deceased employee in accordance with the government policy.

5. Respondents have taken steps in this regard by sending Letter No. 7-2202 dated 09.03.2023 to the District Treasury Officer, Bhojpur, Ara and the Branch Manager, Punjab National Bank vide Letter No. 249 dated 13.03.2023.

6. Mr. Chandan Kumar, learned counsel appearing on behalf of the Accountant General at this stage informs that steps have already been taken for making necessary endorsement in the P.P.O. after having received the sanction letter from the department. It has further been informed that immediate steps have been taken and the entire amount as per the revised rate and differential amount on account of fixation of family pension and gratuity will be made available to the petitioner within a period of two weeks.

7. With the aforesaid submission made on behalf of

the respondent nos. 2 to 4 and respondent no.5, the present writ petition stands disposed of.

8. In case the petitioner is still aggrieved that any dues on account of difference of salary and differential amount of gratuity on pay fixation as well as statutory interest for delayed payment has not been paid, the petitioner, if so advised, may file a detailed representation before the concerned authorities.

9. The law is well settled in this regard that the family pension must be paid forthwith and any delay caused on account of laches of the employer, the widow of the employee as well as the dependent of the deceased employee are liable for interest.

10. The concerned authorities are directed to dispose of the representation filed by the petitioner who is a poor disable unmarried daughter of the deceased employee forthwith and make payment of all the dues on account of difference of salary payable, differential amount payable on account of fixation of family pension and other retiral dues along with the interest at the rate of 12% from 31.01.1986 till date.

11. With the above observation, present writ

petition is disposed of.

(Purnendu Singh, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	13.04.2023
Transmission Date	N.A.