

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.710 of 2021

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Most. Jasho Devi W/o Late Chandrashekhar, Resident of Mohalla - Jagjivan
Nagar Chitkohara Pool Ke Niche, P.O.- G.P.O., P.S. Gardanibagh, Dist. Patna.

... .. Petitioner/s

Versus

1. The Patna Municipal Corporation through its Municipal Commissioner,
Budha Marg, Patna -1.
2. The Commissioner Patna Municipal Corporation Budha Marg, Patna.
3. Additional Commissioner, Patna Municipal Corporation Budha Marg, Patna.
4. The finance and accountant controller Patna Municipal Corporation, Budha
Marg, Patna - 1.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Adv.
For the Respondent/s	:	Mr. Prasoon Sinha, Adv.
For the PMC	:	Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

10 10-01-2023 Heard learned counsel for the petitioner and counsel
for Patna Municipal Corporation.

The present Writ application has been filed directing
the respondent to pay the death-cum-retiral benefit to the
petitioner with effect from 30.04.2017, which is being held by
concerned authorities, without any valid reason and further
prayer was made for payment of interest, on market rate, on the
arrear on the late payment.

Learned counsel for the petitioner submits that
petitioner is the widow of *Safai Mazdoor*, who was an
employee in Patna Municipal Corporation and retired on

30.04.2017 subsequently died on 26.09.2019.

He submits that petitioner has filed a representation on 05.11.2019 and again on 12.08.2020 with regard to payment of death-cum-retiral benefit of her deceased husband along with gratuity, leave encashment, P.F. with interest and penal interest along with insurance amount arrear or A.C.P. towards 5th and 6th pay revision.

Learned counsel for the Municipality submits that husband of the petitioner was appointed in the year 1984 as *Safai Mazdoor* in the head office of Patna Municipal Corporation. It has been stated that after death of employee, Most. Jasho Devi and Most. Kumar Devi are projecting themselves as wife of the deceased employee and both are claiming for payment of death-cum-retiral dues of the deceased employee. As such, the Corporation has directed both of them vide order dated 06.08.2020, to produce Succession Certificate with regard to payment of death and retiral dues. He also submits that the petitioner has deliberately not informed this Court about the existence of Kumar Devi, whose name was already present in the application form for pension.

He further submits that he has filed supplementary counter affidavit also, in which Annexure- B has been filed i.e.

application for pension by deceased employer Chandrashekhar himself, during his lifetime, before the concerned authority. In the said application, name of Smt. Kumar Devi has been shown as his wife. He had also furnished the name of his children in the said application, according to which he has wife namely Kumar Devi and Papu Kumar, Sintu Kumar as his sons and Rubi Kumari, Priyanka Kumari as his daughters.

Learned counsel for the petitioner has not disclosed in his petition that whether petitioner's alleged husband had any other wife or not. In her petition, it has been submitted by the petitioner that the deceased employee married to Kumar Devi, the petitioner and she is the second wife. It has also been submitted that the said second wife has 3 sons Budhan Kumar, Ajay Mandal and Rahul Kumar from the petitioner. But in the writ petition there is not a single word mentioned with regard to existence of his first wife.

In this view of the matter, Annexure- A is very relevant, in which the Additional Municipal Commissioner has ordered to bring Succession Certificate from the competent Court and then only directed to make the payment.

Let it is to be directed to the petitioner that she shall obtain the Succession Certificate from the competent Court

adding both Kumar Devi and her sons as party, as mentioned in the application for petition and thereafter the authorities shall pay the retiral benefits to the successors, declared by competent Court, other than family pension.

So far as the payment of family pension is concerned, it is hereby directed to the Patna Municipal Corporation to release the family pension in favour of person, whose name has been mentioned in the application by the deceased employer himself. The left admitted dues shall be distributed as per the Succession Certificate.

With this direction, this Writ petition is hereby disposed.

(Dr. Anshuman, J.)

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