

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17442 of 2022

Chinta Devi, Wife of Late Bharat Prasad Mandal, Resident of Village-
Parhidhi, P.O. Kerwar, P.S. Katoria, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj Department,
Govt. of Bihar, Patna.
2. The District Magistrate, Banka.
3. The Deputy Development Commissioner, Banka.
4. The District Panchayati Raj Officer, Banka.
5. The Sub Divisional Officer, Banka.
6. The District Provident Fund Officer, Banka.
7. The Block Development Officer, Belhar, District- Banka.
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Sinha, Advocate
For the A.G.	:	Mr. S.M. Ehtesham, Advocate
For the State	:	Mr. Ajay, GA-5
		Mr. Pratik Kumar Sinha, AC to GA-5

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 31-07-2023

Heard Mr. Manoj Kumar Sinha, learned counsel
appearing on behalf of the petitioner, Mr. S.M. Ehtesham,
learned counsel appearing on behalf of Accountant General and
Mr. Ajay, learned G.A-5 for the State.

2. Learned counsel appearing on behalf of the
petitioner informs that specific statement has been made in
paragraph no.11 of the counter affidavit filed on behalf of the
respondent/State that the provisional family pension from
20.08.2012 to February, 2019 was being paid to the petitioner



and provisional gratuity, group insurance and G.P.F. was also paid to the petitioner.

3. The petitioner is aggrieved for recovery/adjustment to the tune of Rs. 38,24,001/- from the family pension of the petitioner and an amount of Rs. 15,00,000/- was adjusted by fortifying the bank of the deceased employee.

4. Learned counsel appearing on behalf of the petitioner submits that the case of the petitioner is covered by a decision of a Division Bench of this Court in support of his claim that no recovery can be made from the widow after the death of employee in case of *State of Bihar Vs. Deopati Devi* passed in *Letters Patent Appeal No. 1839 of 2015 arising out of C.W.J.C. No. 1581 of 2008*. In this regard, learned counsel submits that the petitioner has stated that the husband of the petitioner died in harness on 19.08.2012 and the decision has been taken with respect to adjustment/recovery in the year 2022. The alleged illegality or any miscalculation or misappropriation of the government fund relates to financial year 2001, which is much before the date of the death of the husband of the petitioner in harness. The petitioner is poor lady and the action of the State Government is penal in nature, the recovery, as



such, is illegal.

5. Learned counsel appearing on behalf of State submits that an amount of Rs. 15 Lakh was forfeited from the account of the deceased employee relating to financial year 2009-10 during which period the deceased employee was alive. No action was taken by the husband of the petitioner at that point of time. The action for recovery of loss of public money as has been estimated relates to the misappropriation of fund which is required to be recovered from the petitioner in accordance with law.

6. Considering the rival submission made on behalf of the parties, as well as, the fact that the husband of the petitioner had died in harness in the year 2012, the alleged misappropriation / any misrepresentation relates to financial year 2001-02 for which no disciplinary proceeding was initiated against the husband of the petitioner as is reflected from the record and the pleading made in the writ petition as well as counter affidavit. The respondents have already forfeited an amount of Rs. 15,00,000/- from the bank account of the deceased employee and have also taken decision in the year 2022 to adjust/recover an amount of Rs. 38,24,001/- from the widow, who is petitioner before this Court, after death of her



husband. The action of the respondent prima facie appears to be illegal and against the settled principle of law laid down by the Hon'ble Apex Court as well as the Division Bench of this Court in case of Deopati Devi (Supra). The action of the respondent in forfeiting the bank account of the deceased employee in which Rs. 15,00,000/- was deposited as well as a decision taken to recovery/adjust Rs. 38,24,001/ being not in accordance with law is hereby set aside and any order to that effect is fit to be quashed.

7. The petitioner was being paid regular pension from 2012 till the illegal decision taken to recover from the pension and pensionary benefit in the year 2022.

8. The respondent concerned is directed to pass a reasoned order on the basis of records relating to the deceased employee, as well as, the law laid down by the Hon'ble Apex Court and must pass a final order with respect to payment of family pension etc. to which petitioner is entitled in accordance with law within a period of four weeks from the date of communication of this order.

9. The Block Development Officer, Belhar, Banka must ensure to visit the house of the petitioner and contact the petitioner, who is a widow and illiterate lady, and get all the



formalities including the filling of forms etc and other paraphernalia for getting the grievance of the petitioner redressed in accordance with law. In case of his inaction, as directed by this Court, proper legal action will be taken against the Block Development Officer for consciously and willingly violating the order of this Court.

10. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2023
Transmission Date	

