IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4473 of 2021

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Nagmani Paswan @ Kumar Nag Mani Vishwas Son of Late Radhe Shyam Paswan Resident of Village- Mehda Shahpur, Police Station- Cheria Bariarpur, District- Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Department of General Administration, Government of Bihar, Patna.
3. The Additional Secretary Department of General Administration, Government of Bihar, Patna.
4. The Joint Secretary Department of General Administration, Government of Bihar, Patna.
5. The District Magistrate Madhepura.
6. The Block Development Officer Kumar Khand, Madhepura.
7. The District Provident Officer Madhepura.
8. The Director Provident Fund, Provident Fund Directorate, Pant Bhawan, Patna.
9. The Accountant General Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajey Kumar, Advocate
For the State	:	Mr. Anil Kumar, Adv
For Accountant General	:	Mr. Raj Nandan Prasad, Adv

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

11 22-10-2024 Heard Mr. Ajey Kumar, learned Advocate for the petitioner, Mr. Anil Kumar, learned Advocate for the State and Mr. Raj Nandan Prasad, learned Advocate representing Accountant General, Bihar.

2. The petitioner, widow of the erstwhile employee who superannuated from the post of Circle Officer on 31.07.2009 and finally died on 05.07.2014, came before this

Court seeking quashing of the part of the order contained in letter no. 370 dated 25.05.2015 issued by the respondent no. 9 by which death-cum-gratuity amount has been withheld for want of No Dues Certificate. The widow of the erstwhile employee also seeks a direction upon the respondents to ensure payment of death-cum-retiral benefits and other dues.

3. Adverting the narrations made in the writ petition, it has been pointed out that during the pendency of the writ petition, the sole petitioner, widow of the erstwhile employee also died on 11.05.2021. On account of death of the sole petitioner, her son has been substituted in her place vide order of this Court dated 22.02.2024. From the impugned order, it appears that the amount of gratuity has been released in favour of the widow of the erstwhile employee but the same has been kept pending in absence of No Dues Certificate.

4. The learned Advocate for the petitioner further contended that the counter affidavit filed on behalf of the District Provident Fund Officer also reveals that the erstwhile employee has not been allowed the GPF amount for the period 1981-82 to 1994-95 on account of non-availability of the deduction statement required to be provided by the parent department of the erstwhile employee. He further submits that

while the father of the petitioner was in service, he was put to suspension and a departmental proceeding had been initiated, which also came to be abated upon the death of his father. The erstwhile employee has not even been paid for the period of suspension. It is next contended that despite the sanction of the leave encashment amount, that has also not been paid to the petitioner.

5. On the other hand, learned Advocate for the State referring to the averments made in the counter affidavit has submitted that all the retiral benefits and dues of the erstwhile employee has been sanctioned way back in the year, 2015 and the substantive amount under different heads have already been paid.

6. It would be suffice to say that the erstwhile employee has already superannuated on 31.07.2009 from the post of Circle Officer, Kumar Khand, Madhepura. After his superannuation, he subsequently died on 05.07.2014 but during the afore-noted period, any issue with regard to the non-issuance of No Dues Certificate has not been resolved and after the death of the erstwhile employee when the amount of gratuity has been released, the same has been kept withheld on the plea of non-issuance of No Dues Certificate, which in the opinion of this

Court is wholly unjustified. If there had been any claim over the erstwhile employee, the same must be finalized and resolved prior to the date of his retirement or at least before his death but the same could not be finalized.

7. Considering the submissions advanced on behalf of learned Advocate for the respective parties and taking note of the fact that the amount of gratuity has already been released in favour of the erstwhile employee in the name of his widow. However, the same has not been paid in absence of No Dues Certificate. This Court directs the respondent nos. 5 and 6 to verify the claim of the petitioner and issue No Dues Certificate in favour of the erstwhile employee so that the amount of gratuity can be released in favour of the petitioner after furnishing the requisite documents to show that the petitioner is bona-fide legal heir of the erstwhile employee. The respondent-authority shall also consider the claim of the petitioner's father for amount of leave encashment and the provident fund amount for the period 1981-82 and 1994-95 alongwith salary for the period of suspension preferably within a period of twelve weeks from the date of receipt/production of copy of this order.

8. Suffice it to say that the erstwhile employee superannuated way back on 31.07.2009 and died on 05.07.2014

and now, the widow who had been running from pillar to post and pursuing the remedy has also died during the pendency of the writ petition. Thus, the respondent-authorities must adhere to the period stipulated here-in-above in order to resolve the dispute and ensure the admissible payment.

9. The writ petition stands disposed off with the aforesaid observation and direction.

(Harish Kumar, J)

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