

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3665 of 2024

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Gulshan Ara, Wife of Late Ali Musa, Resident of Village- Basouli Gonoun,
Shanpur, P.O. Gonoun, P.S. Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Accountant General, Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The Treasury Officer, Madhubani.
6. The Block Development Officer, Benipatti, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the Respondent/s : Mr. Rajesh Kumar, AC to GP- 3

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 05-12-2024

Heard Mr. Prafull Chandra Jha, learned Advocate for
the petitioner and Mr. Rajesh Kumar, learned AC to GP-3.

2. The petitioner is the widow of late Ali Musa, who
died in harness on 18.10.2021, while he was working in the
office of Block Development Officer, Benipatti. Despite the
sudden demise of the husband of the petitioner, when the
petitioner has not been accorded her admissible retiral benefit-



cum-terminal dues of her husband, including Gratuity, Group Insurance as well as Family pension, she approached before this Court by filing the present writ petition seeking a direction to extend all the benefits as well as salary for certain period, as has been disclosed in para.1 of the writ petition.

3. Learned Advocate for the petitioner submitted that the husband of the petitioner was duly appointed on 12.09.1983 on the post of Urdu Typist in the office of Block Development Officer, Kusheshwar Asthan, Darbhanga. Having been found eligible, the husband of the petitioner was granted 1st Time Bound Promotion and the benefit of admissible revision of pay has also been accorded in his favour. Thereafter the husband of the petitioner was transferred to different places and while he was working in the office of Block Development Officer, Benipatti on account of serious ailment, he died on 18.10.2021 at IGIMS, Patna.

4. It is further contended that while the husband of the petitioner was posted as Upper Division Clerk in the office of Block Development Officer, Madhepur, a criminal case, bearing Madhepur P.S. Case No. 43 of 2016, has been instituted under Sections 406, 409, 420, 467, 468 and 120(B) of the Indian Penal Code. The husband of the petitioner apprehending his arrest



moved before this Court and accordingly granted anticipatory bail. It is the contention of the petitioner that on account of death of her husband, the criminal case stands abated and, as such, there is no impediment in according the retiral benefits and other terminal dues in favour of the petitioner.

5. Per contra, learned Advocate for the State contended that on account of irregularity in the selection of Indira Awas beneficiaries and distribution of aid as well as for keeping the accounts pending with the husband of the petitioner, the departmental proceeding was initiated and the husband of the petitioner, besides some other punishment was held liable for illegal withdrawal of Rs.1,23,27,000/- and for recovery of which a Certificate Case has been filed and the matter was handed over to the Vigilance Department for enquiry. It is the contention of the learned Advocate for the State that after completion of enquiry, the report was forwarded to the Director, Urdu Directorate, Government of Bihar, Patna and, accordingly, final order came to be passed vide order dated 02.06.2020 after having found the husband of the petitioner guilty of misconduct and authorized the District Magistrate, Madhubani for recovery of defalcated amount.

6. Notwithstanding the, aforementioned, facts that on



account of the death of the husband of the petitioner in harness on 18.10.2021, the District Magistrate, Madhubani sought a direction from the Urdu Directorate, Government of Bihar, Patna for payment of admissible retiral/terminal benefits to the petitioner. In response thereto the Director, Urdu Directorate, Government of Bihar, Patna vide its letter no. 662, dated 26.07.2022 directed the District Magistrate, Madhubani to take further action in view of the opinion rendered by the General Administration Department, Government of Bihar as well as the Advocate General, Bihar.

7. Learned Advocate for the State referring to the averments made in the counter affidavit has submitted that the District Magistrate, Madhubani sent a letter and its reminders to the Superintendent of Police, Vigilance Investigation Bureau, Patna for providing present status with respect to the enquiry conducted in the case of Ali Musha so that final decision may be taken for payment of family pension and other admissible dues to the petitioner.

8. Having heard the submissions of the learned Advocate for the respective parties and taking note of the admitted position that apart from the departmental proceeding, simultaneously a criminal case was instituted against the



husband of the petitioner. Once the husband of the petitioner, who was accused in the criminal case, died on 18.10.2021, admittedly the criminal case stands abated. Thus, any enquiry conducted by the Investigating officer after the death of the accused would not serve any purpose, being inadmissible in law.

9. It is also the admitted position that the husband of the petitioner was visited with certain penalties, as is evident from letter no. 85 dated 02.06.2020 (Annexure-R/1), which has not been assailed by the husband of the petitioner or the petitioner till date.

10. Thus, in such circumstances, the District Magistrate is directed to take a final decision on the basis of the admitted position that as of now there is no criminal case pending against the husband of the petitioner, which stood abated on account of his death.

11. Notwithstanding the fact that the husband of the petitioner died on 18.10.2021 and till date the petitioner, who happens to be the widow of erstwhile employee, has not getting any family pension and other dues; it is expected that the final decision must be taken with respect to her entitlement on the basis of materials available on record preferably within a period of ten weeks from the date of receipt/production of a copy of



this order, followed by the consequential monetary benefits, in
accordance with law.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2024
Transmission Date	NA

