

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P. (S) No. 7353 of 2019**

Niraj Kumar, son of Late Ram Dahin Singh, Resident of – Sagarpur, P.O. and P.S. – Makdumpur, District – Jahanabad, Bihar

... PETITIONER

Vs.

1. The State of Jharkhand, through its Chief Secretary, Government of Jharkhand, Ranchi
2. Secretary, Water Resources and Irrigation Department, Government of Jharkhand, Ranchi
3. Executive Engineer, Water Irrigation Division, Jamtara
4. Deputy Commissioner, Jamtara.

... .. RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK**  
(Through : Video Conferencing)

For the Petitioner : Mr. Ajit Kumar, Advocate  
For the Respondents : Mr. Ravi Kerketta, AC to AAG-IV

**14/10.08.2021**

In view of outbreak of COVID-19 pandemic, case has been taken up through Video Conferencing and heard at length. Concerned lawyers have no objection with regard to the proceeding which has been held through Video Conferencing and there is no complaint in respect to audio and video clarity and quality and after hearing at length, the matter is being disposed of finally.

2. Heard the parties.
3. Petitioner has approached this Court with a prayer for a direction upon the respondents to appoint him on compassionate ground on account of death of his father and further to pay all the death-cum-retiral benefits with interest @12% per annum from the date of due till the date of actual payment.
4. Facts of the case in brief as has been delineated in the writ petition is that petitioner's father, who was working to the post of peon in Irrigation Department, Jamtara, died in harness on 30.01.2007. After his death, petitioner preferred representation regarding his appointment on compassionate ground. Petitioner was asked to submit Succession Certificate. After obtaining the Succession Certificate in Succession Case

No. 1/2009, issued by the Sub-Judge-1<sup>st</sup>, Jahanabad, Bihar, dated 03.09.2010, petitioner submitted the same along with required certificates. Thereafter, case of the petitioner was forwarded vide Letter No. 374, dated 27.10.2011 by the respondent no. 3. Since case of the petitioner has not been considered by the respondents, he knocked door of this Court by filing instant writ petition.

5. Mr. Ajit Kumar, learned counsel appearing for the petitioner, very fairly submits that he is not pressing compassionate appointment for the present rather he is claiming payment of retiral benefits along with his sister, which would be paid to them in view of Succession Certificate issued by the competent Court and also in view of P.F. Certificate. Learned counsel very fairly submits that since both brothers and sisters have claimed for payment of retiral benefits, in view of settled principles of law and in view of equitable justice, the respondents may be directed to pay retiral benefits to the petitioner in accordance with law taking into consideration the Succession Certificate and P.F. Certificate. Learned counsel further argues that petitioner's father died on 30.01.2007 but till date he has not received the death-cum-retiral benefits and as such he is entitled for the interest also for delayed payment in view of the decision rendered in the case of *The State of Andhra Pradesh and Another Vs. Smt. Dinavahi Lakshmi kameswari* In *Civil Appeal No. 399 of 2021* [Arising out of *SLP (C) No. 12553 of 2020*].

6. Per contra counter affidavit has been filed.

7. Mr. Ravi Kerketta, AC to learned AAG-IV representing State argues that entire facts have been brought to the knowledge of the State by way of rejoinder filed by the petitioner. Initially petitioner was praying for compassionate appointment, which was not acceptable in view of settled proposition of law. However, since from rejoinder it has now been gathered that petitioner is rescinding claim of compassionate appointment, claim of death-cum-retiral benefits only shall be considered in accordance with law. If petitioner files representation annexing a copy of the rejoinder and required documents including Succession Certificate, P.F. Certificate, the same shall be considered in accordance with law. Learned counsel further

argues that since petitioner's sister is also one of the legal heir of the deceased, the entire money may be distributed equally amongst them.

8. Be that as it may, having heard counsel for the parties and after perusing the documents, this Court is of the considered view that since petitioner has rescinded the claim for compassionate appointment and now pressing claim for payment of retiral benefits, the same may be extended to him taking into account the Succession Certificate and P.F. Certificate. Petitioner has fairly conceded that if the respondents so desires, they may pay 50% of the amount to him and rest 50% to his sister who is also legal heir of the deceased employee and no objection has been raised from either sides as they are siblings.
9. Considering fair submission of the parties, particularly the petitioner, I, hereby, direct the respondents that if fresh representation is filed by the petitioner annexing the required documents including the Succession Certificate, Providing Fund Certificate etc., the same shall be considered in accordance with law and petitioner shall be paid death-cum-retiral benefits within a period of six weeks from the date of receipt/production of a copy of this order. Since the deceased employee (father of the petitioner) died on 30.01.2007 and till date retiral benefits have not been paid to the legal heirs and as such taking into consideration the law laid down in the Judgment rendered by the Hon'ble Apex Court in the case of *The State of Andhra Pradesh and Another Vs. Smt. Dinavahi Lakshmi kameswari (Supra)* the respondents are directed to consider for payment of statutory interest also along with retiral benefits.
10. With the aforementioned observations and directions, the writ petition stands allowed.

**(Dr. S.N. Pathak, J.)**