

**(2002) 11 PAT CK 0062**

**Patna High Court**

**Case No:** C.W.J.C. No. 10270 of 2002

Mostt. Jaya Mishra

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

**Date of Decision:** Nov. 13, 2002

**Citation:** (2003) 1 PLJR 120

**Hon'ble Judges:** Radha Mohan Prasad, J

**Bench:** Single Bench

**Advocate:** Sheojee Mishra, for the Appellant; Azfar Hasan, for State, Ashok Kr. Keshari, for Tilka Manjhi Bhagalpur University and B.K. Jha, for Sidhu-Kanu University, for the Respondent

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

Radha Mohan Prasad, J.

Heard learned Counsel for the parties.

2. In this writ application, prayer is to issue writ in the nature of mandamus commanding the Respondents authorities to pay the remaining death-cum-retiral dues of the deceased husband of the Petitioner including family pension.

3. The husband of the Petitioner was working as Head of the Department in the Department of Political Science in Sahibganj College under Bhagalpur University. He retired from service on 30th April, 1990 while working under Tilka Manjhi Bhagalpur University, hereinafter referred to as the "University". After his retirement, the deceased husband of the Petitioner was paid his pension regularly till July, 2001. By the creation of Sidhu-Kanu University, Dumka, Sahibganj College was transferred under the said University. Later, on creation of the State of Jharkhand under the Reorganisation Act, payment of pension to the deceased was stopped with effect from 1.8.2001. Ultimately, the husband of the Petitioner died on 28.12.2001 and the Petitioner has been kept deprived of her family pension also.

4. It is stated by the learned Counsel for the Petitioner that during the pendency of this writ application, other grievances of the Petitioner with respect to G.P.F., Gratuity etc. have been redressed. However, now the only grievance in the present writ application is with respect to the amount of pension which was not paid to the deceased husband of the Petitioner with effect from 1.8.2001 and family pension for which the Petitioner has been kept deprived since after the death of her husband.

5. A counter affidavit has been filed on behalf of the University. Learned Counsel for the University has submitted that the payment of pension was stopped as per the direction of the State, as contained in Annexure-R/3, as the College from where the Petitioner's husband retired was transferred under Sidhu-Kanu University which is now in the State of Jharkhand. In support of this, he has placed reliance on the orders passed by the Jharkhand High Court and by this Court as contained in Annexures-R/1 and R/2 and also on the Government's instruction, as contained in Annexure-R/3.

6. Learned Counsel for the Petitioner, on the other hand, has submitted that the submission of the learned Counsel for the University is wholly misconceived. None of the orders contained in Annexure-B series has any application to the facts of the present case. According to him, the said cases are related to the persons who retired from service under Sidhu-Kanu University, Dumka and not like the case of the Petitioner's husband, who retired from service under Bhagalpur University.

7. However, learned Counsel for the University, in reply, submitted that in the cases of Petitioners of the writ applications in which orders, as contained in Annexures-R/1 and R/2, have been passed, though they retired from service from Sidhu-Kanu University, but pensions were being paid to them by Bhagalpur University till the creation of the State of Jharkhand, whereafter, payments were stopped as per direction of the State Government as this liability under the Reorganisation Act was of the State of Jharkhand. Accordingly, in the case of the husband of the Petitioner also payment of pension was stopped and the Petitioner has not been paid family pension.

8. I am unable to appreciate the said submission of the learned Counsel for the University. There is no similarity of the case of the Petitioner with the cases in which orders contained in Annexure-R series have been passed. It has rightly been submitted by the learned Counsel for the Petitioner that the husband of the Petitioner retired from service of the Bhagalpur University and he was never in the service of Sidhu-Kanu University which is not in the newly created State of Jharkhand. From the letter of the State Government contained, in Annexure-R/3 also, I find that the instruction contained therein relates to the payment of pension to the employees of the University which now falls under the jurisdiction of the State of Jharkhand and it has got no concern with the employees who were never in the employment of the College/University now falling under the jurisdiction of the newly

created State of Jharkhand. Accordingly, I do not find any justification to deprive the pensioner of the pensionary dues of her deceased husband as well as family pension admissible to her by the Bhagalpur University.

9. In the result, this writ application is allowed with cost of Rs. 2000/- to be paid by the Bhagalpur University. The Vice-Chancellor and the Registrar of Tilka Manjhi Bhagalpur University, Respondent Nos. 3 and 4 are directed to release the above mentioned pensionary dues of the deceased husband of the Petitioner as well as family pension admissible to the Petitioner within one week from the date of receipt/production of a copy of this order, failing which the said Respondents shall not be allowed to draw their salary and shall also be liable to pay further (sic) at Rs. 1000/-.