

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19881 of 2021

Divya Prakash Pathak Son of Late Chandra Bhushan Pathak, Resident of
Village and Post - Maula Bagh, Arrah, P.S. - Nawada, Disst. - Bhojpur.

... .. Petitioner/s

Versus

1. The Dakshin Bihar Gramin Bank Head Office Shri Bishnu Commercial Complex, NH-30, New Bypass, Near Bypass Service, Petrol Pump, Ashokchak, Patna, 800016, through its General Manager.
2. The General Manager, Dakshin Bihar Gramin Bank, Head Office, Shri Bishnu Commercial Complex, NH-30, New Bypass, Near Bypass Service, Petrol Pump, Ashokchak, Patna - 800016.
3. The Regional Manager, Dakshin Bihar Gramin Bank, Regional Office, Shri Hariken Kumar Jain Trust Bhawan, Hari Ji Ka Hata, Arrah 802301.
4. The Board of Directors, Dakshin Bihar Gramin Bank through its Chairman Shri Bishnu Commercial Complex, NH-30, New Bypass, Near Bypass Service, Petrol Pump, Ashokchak, Patna, 800016.
5. The General Manager (HRD/Pension), Dakshin Bihar Gramin Bank through its Chairman Shri Bishnu Commercial Complex, NH-30, New Bypass, Near Bypass Service, Petrol Pump, Ashokchak, Patna, 800016.
6. The Chief Manager, Pension Cell, Dakshin Bihar Gramin Bank through its Chairman Shri Bishnu Commercial Complex, NH-30, New Bypass, Near Bypass Service, Petrol Pump, Ashokchak, Patna, 800016.
7. The Branch Manager, Dakshin Bihar Gramin Bank, Godhna Branch, Arrah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Siyaram Pandey

For the Respondent/s : Mr.Dr. Anand Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 25-08-2022

The present writ petition has been filed for



directing the respondents to make payment of the commuted value of pension to the petitioner herein, who is the son of the deceased employee of Dakshin Bihar Gramin Bank, Branch Office-Godhna, Ara, namely, Chandra Bhushan Pathak, who is stated to have died on 19.7.2021, after superannuating from service on 31.12.2020 while working on the post of Officer Scale-1.

The brief facts of the case are that the father of the petitioner was appointed in the Bihar Gramin Bank, which was later on named as Dakshin Bihar Gramin Bank and he served the Bank to the full satisfaction of the Respondent authorities for a period of 32 years and finally, superannuated on 31.12.2020, whereafter he applied for grant of post retiral benefits along with the commuted value of pension. It is further submitted that though the entire retiral dues including the pension were paid to the deceased-father of the petitioner, however, the commuted value of pension was not paid to the father of the petitioner, who ultimately died on 19.7.2021. It is



further submitted that since the father of the petitioner had applied for commutation of pension, it is incumbent upon the respondent authorities to make payment of the same.

Per contra, the learned Senior Counsel for the Respondent-Bank has submitted, by referring to the counter affidavit filed in the present case that the deceased father of the petitioner had applied for grant of pension on 10.9.2020, which was received at the Regional Office of the Bank at Ara on 23.10.2020, however, no application for commutation of pension was filed, nonetheless, the said application of the deceased father of the petitioner was processed and the admissible retiral dues were also paid, apart from pension being started, amounting to a sum of Rs. 42,793/- per month, which was paid to the deceased father of the petitioner till his death. The learned Senior Counsel for the Respondent-Bank has further submitted that the payment of pensionary benefits is governed by the Madhya Bihar Gramin Bank (Employees) Pensions Regulations, 2018 (herein



after referred to as the “Pensions Regulations, 2018”) as also the decisions taken by the Board of Trustees of the Dakshin Bihar Gramin Bank Employees Pension Fund Trust from time to time. It is submitted that as per the aforesaid Pension Regulations, 2018 of the Respondent-Bank, any employee/staff, who wants to opt for pension has to deposit entire contribution of employer’s share with interest accrued thereon to become member of Dakshin Bihar Gramin Bank Pension Fund and then only, he becomes eligible for pension, however, considering the financial hardship being faced by the employee / staff after retirement and on humanitarian ground, the Respondent-Bank is releasing pension in favour of the retired employee / staff only after obtaining an undertaking / declaration from them to the effect that they would deposit employer share of employee provident fund organization, immediately after receipt of fund from employees provident fund organization, but commutation of pension is being granted by the Respondent-Bank only after receiving the



employer's share from the employees provident fund organization. In the present case, the deceased father of the petitioner had submitted form for payment of employees provident fund organization amount and EPFO pension only on 25.5.2021, at Regional Office at Ara, which was forwarded to the head office at Patna on 26.5.2021, whereafter the deceased father of the petitioner had deposited the entire contribution of the employer's share of EPFO, amounting to a sum of Rs. 5,67,585/- on 15.7.2021, after receipt of the same from the employees provident fund organization and had therefore become member of the pension scheme. It is only then that the petitioner had submitted an incomplete application on 16.7.2021 for commutation of pension on behalf of his father, which was received by the Regional Office of the Bank at Ara. It is further submitted that a bare perusal of the said application dated 16.7.2021 would show that the same neither contains the signature of the employee on his photograph pasted on the said application nor the



same contains any date and other particulars, hence, while the said application was under process for the purposes of rectification of the defects, the Regional Office of the Bank had received an information that the deceased father of the petitioner had died on 19.7.2021, who was hospitalized from past few days, thus, the aforesaid application for commutation of pension could not be processed further.

I have heard the learned counsel for the parties and gone through the materials on record from which it is apparent that an application for commutation of pension was filed only on 16.7.2021 and that too, by the petitioner herein on behalf of his deceased father, however, the same was incomplete in many respects including the deceased employee's signature being not present on his photograph, nonetheless, it is a fact that the deceased employee died merely after three days of submission of such application i.e. on 19.7.2021, leading to cessation of pension of the deceased father of the petitioner, hence, admittedly,



commutation of pension could not be granted since payment of pension had stood discontinued on account of the death of the father of the petitioner, thus, in view of payable pension being not in existence, pension cannot be commuted in nihility, apart from the fact that the application for commutation of pension remained defective and the defects could not be cured on account of the death of the father of the petitioner.

Considering the aforesaid facts and circumstances of the case, this Court finds that the petitioner has not made out any case so as to warrant issuance of a direction upon the respondents to pay the commuted value of pension qua the deceased father of the petitioner, hence, the present writ petition, stands dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

Ajay/-

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