

**Devashish Sinha and ors. Vs. the State of Bihar and ors.**

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**Court :** Patna

**Decided On :** Dec-16-2009

**Judge :** Jyoti Saran, J.

**Appellant :** Devashish Sinha and ors.

**Respondent :** The State of Bihar and ors.

**Judgement :**

**Jyoti Saran, J.**

1. Heard Mr. Anand Mohan Verma, learned Counsel for the petitioner and Mr. Amrendra Narain Rai, learned Counsel appearing on behalf of the Corporation.
2. The petitioners are dependants of Late Vijay Kumar Sinha who died in harness while serving under the Bihar State Food and Civil Supplies Corporation on tie post of Deputy Manager and have filed this writ petition for payment of the admissible retiral dues of their late father.
3. A counter affidavit was filed on 6.4.2006 on behalf of the Corporation and in which it was stated that an amount of Rs. 1,85,153/- has been paid to the petitioners vide Cheque No. 205465 dated 28.2.2004 towards BOT amount and a further amount of Rs. 31,490/- has been paid by way of subsistence allowance admissible to the father of the petitioners for the period November, 2002 to 17.5.2003. It has been stated that an amount of Rs. 1,55,232/- being the gratuity

amount, Rs. 76,888/- towards leave encashment, Rs. 55,310/- being the salary for the period March 1999 to April 2000 and due salary for the period January 1995 to October 1996 to the tune of Rs. 1,36,695/, total being Rs. 4,24,125/- was calculated as payable to the petitioners by way of death cum retiral benefits. It was however stated that by reason of some defalcation made by the father of the petitioners to the tune of Rs. 4,13,877.50 together with the interest amount of Rs. 4,91,603 was outstanding against the father of the petitioners, hence, this dues has been recovered by way of adjustment against the admissible amount of post retiral benefits of the father of the petitioners and thus, the petitioners are not entitled to any other amount.

4. So far as the Group Insurance amount is concerned, it is stated that the claim was sent to the Branch manager, Life Insurance Corporation of India, Mazharul Haque Path, Patna for onward action. A copy of the letter dated 22.2.2006 has been annexed as Annexure-A to the counter affidavit.

5. It was also stated that for the payment of family pension, the claim was forwarded to the Regional Provident Fund Organization vide letter No. 219 dated 1.2.2006.

6. Learned Counsel for the petitioners submits that he has entered his appearance on 21.12.2008 and the brief received by him does not contain the copy of the counter affidavit.

7. In that view of the matter, let a copy of the counter affidavit be served upon the counsel, for the petitioners by the respondents Corporation.

8. Learned Counsel for the petitioners is permitted to add the Regional Provident fund Commissioner and the Branch Manager, P & G.S. Life Insurance Corporation, as respondent Nos. 5 and 6 respectively to the present proceedings.

9. Let two copies of the entire pleadings be served upon Mr. R.S. Pradhan, learned Counsel representing the Provident Fund Commissioner and two copies of the said pleadings be served on Mr. Rajeev Ranjan who appears for the Life Insurance Corporation of India within one week and receipt thereof be filed in the

office.

10. List this matter after six weeks retaining its position enabling the parties to file their respective affidavits.

11. Learned Counsel for the Food and Civil Supplies Corporation would also bring on record the entire proceedings together with the relevant documents right from the initial stage of proceedings until the passing of the final orders under which it was decided to recover the said amount, by way of supplementary counter affidavit.

12. Let the affidavits be filed by the Provident Fund Commissioner as well as the Life Insurance Corporation in the flight of the statements made in the counter affidavit of the respondent Food and Civil Supplies Corporation pertaining to payment of the provident fund amount and the family pension amount.

13. Let a copy of this order be handed over to Mr. Amrendra Narain Rai for onward circulation to the counsel concerned.

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