

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.83 of 2015**

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Nagina Khatoon, wife of Late Afzal Hussain, resident of village+ P.O.-Kakan, P.S. Jokihar, District-Araria

.... .... Petitioner/s

Versus

- 1.The State of Bihar through the Secretary, Department of Public Health Engineering Department, Bihar, Patna.
- 2.The Secretary, Department of Public Health Engineering Department, Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
5. The Engineer-in-Chief-cum-Special Secretary, PHED, Bihar, Patna.
6. The Chief Engineer, Department of PHED(Mechanical), Bihar, Patna
7. The Superintending Engineer, Public Health Engineering Department, Purnea Circle, District-Purnea
8. The Executive Engineer, Public Health Division, Araria
9. The District Magistrate, Araria
- 10 The Accountant General(A & E), Bihar, Patna
11. The District Accounts Officer, District-Purnea
12. The Treasury Officer, Araria.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Siyaram Pandey

For the Respondent/s : M/S Anil Kumar Sinha(G.A.9) & Pawan Kumar(A.C.to G.A.-9)

For the Accountant General:Mr. Raj Nandan Prasad

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 21-04-2015**

The facts of the present case are similar, though not identical, to those in C.W.J.C.No. 21724 of 2012. In both the cases

the widows of the employees laid claim for family pension. The concerned employees initially worked on Daily Wages and thereafter were treated as work-charged employees. Both of them died while in service. The difference in the instant case is that though the employee was treated as work charged employees with effect from 26.01. 1988, he was reverted to his status as daily wage employee, on 01.06.2002 and before he could take any effective steps to challenge the reversion, he died on 09.07.2005.

2. Through a detailed order passed today in the aforesaid C.W.J.C.No.21724 of 2012, we took the view that a work charged employee, who remained in service for more than fifteen years, is entitled to be paid pension and on his death, the benefit of family pension must be extended to the spouse.

3.Learned counsel for the respondents submitted that such a benefit cannot be extended to the petitioner herein since the employee was reverted as daily wage worker. Learned counsel for the petitioner has brought to our notice that a work charge employee in the same establishment, who was reverted to a daily wage employee, filed Civil Appeal No. 3486 of 2006 ( Dinbandhu Pandey –v- State of Bihar & ors.), and through its order dated 11<sup>th</sup> August, 2006, the Hon'ble Supreme Court held that such reversion is illegal. It is also stated that following the said order, all the reverted employees were

restored as work charge employees. If the said principle is applied to the instant case, it emerges that the husband of the petitioner was in work charge establishment for a period exceeding 15 years and thereby, the petitioner became entitled to be paid family pension.

4. Therefore, we allow the writ petition and direct the respondents to sanction and pay family pension and gratuity to the petitioner with effect from 1<sup>st</sup> May, 2015. We deny the arrears to the petitioner, since the writ petition is filed at a belated stage and there existed serious doubt as to her entitlement.

5. There shall be no order as to cost.

**(L. Narasimha Reddy, CJ)**

**(Sudhir Singh, J)**

B. Roy/-Singh

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