

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15591 of 2013

- =====
1. The Union Of India Through The Directorate General Of Works, Central Public Works Department, Nirman Bhawan, New Delhi
 2. The Deputy Secretary, Department Of Pension And Pensioners Welfare, 3rd Floor, Lok Nayak Bhawan, New Delhi Null Null
 3. The Pay and Accounts Officer (E.Z.), CPWD Calcutta
 4. The Additional Director General (ER) CPWD, Calcutta
 5. The Director (PG), Department of Urban Development And Poverty Alleviation, Room No. 235 (C) Wing, Nirman Bhawan, New Delhi
 6. The Chief Engineer (EI) EZ, CPWD, Calcutta
 7. The Chief Engineer (Ez-I), CPWD, Calcutta
 8. The Superintending Engineer (Co-Ord) ER, CPWD, Calcutta

.... Petitioner/s

Versus

1. Smt. Sita Devi W/O Late Mithilesh Kumar Sinha R/O Village Dhandhana Chak, P.O. Nisarpura Via Punpun, P.S. Phulwarisharif, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. SanjayKumar Sharma
For the Respondent/s : Mr. Sanjay Kumar (ASG)
Mr. Rakesh Kumar Sinha (CGC)

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 24-03-2015

We have heard learned counsel for CPWD and learned counsel for the sole private respondent and with their consent the writ petition is being disposed of at this stage.

It seems that the husband of the sole respondent was quasi permanent employee of CPWD since 1966. As against options being given in 1977, he migrated to Airport Authority, where he was permanently absorbed. The question is with regard to payment of Pro-

W
NO

rata pension. Learned counsel for the writ petitioner (CPWD) submits that the scheme for making them permanent came in 1981, and as such, the husband of the sole respondent, having left CPWD prior to the scheme, cannot claim benefit of the scheme for the purposes of getting Pro-rata family pension.

We have gone through the order dated 31.5.2012 passed in O. A. No. 219 of 2010 of the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the Tribunal). We are of the view that the reasoning given by the Tribunal was neither legal nor sound and the Tribunal had held that had the policy decision come earlier and had the husband of the sole respondent been worked longer in CPWD, he would have become permanent there itself and therefore, he should be given that status for the purposes of family pension. This cannot be countenanced.

However, in fairness to the learned counsel for the CPWD, we must notice that the Tribunal has also noticed that there were persons who were cited before it who, under similar circumstances that of the husband of the sole respondent, were granted pro-rate pension.

Learned counsel for the sole respondent then points out that CPWD is aware that similar cases were filed in Kolkata Bench of Central Administrative Tribunal. The CAT of Kolkata

allowed the relief against which CPWD went to Apex Court without success. Then there was another case where Kolkata CAT ordered that similar treatment has to be given to all similarly situated persons and accordingly, several persons, similarly situated, are enjoying the benefits. Though we cannot direct to perpetuate illegality but where the order of Tribunal or Court is accepted by the authority, then, authorities cannot choose persons who would be given benefit of that order or judgment and ignore other similarly placed persons. While therefore, setting aside the order of the Tribunal as noticed above, we direct the authorities in CPWD to examine other cases similarly situated who have been consciously granted benefit, may be pursuant to the order of the court, if there are such persons, then, the sole respondent cannot be denied the benefit. This exercise must be done by CPWD in next four months positively.

With this observation and direction, this writ petition stands disposed of.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

avin/-

U			
---	--	--	--