

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10916 of 2016

Manorama Devi, Wife of Late Ramchandra Sahi, Resident of Village - Anant Kamtaul, P.S. - Kurhani, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Government of Bihar, Patna.
2. The Chief Engineer (Work), Building Construction Department, Government of Bihar, Patna.
3. The Superintending Engineer, Building Construction Department, Building Circle, Muzaffarpur Building Division, Hajipur.
4. The Executive Engineer, Building Construction Department, Building Circle, Muzaffarpur Building Division, Hajipur.
5. The Accountant General (A & E), Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Karn, Advocate
For the State : Mr. Nawal Kishore Singh, A.C. G.P. 26

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-09-2016

Heard learned counsel for the parties.

The petitioner is aggrieved by non payment of family pension to her as her late husband died working as Chowkidar in the work charge establishment from 09.07.1982 till 29.09.2006.

Learned counsel for the petitioner submits that though the husband of the petitioner died in harness in the work charge establishment, as per the law settled, regular service in the work charge establishment by an employee shall count for pensionary benefits, if the period exceeds the minimum pensionable service. For such proposition he relies upon a decision of a Division Bench of this

Court in the case of **State of Bihar & Ors. vs. Md. Matin & Anr.** in **L.P.A. No. 1211 of 2015** dated 23.06.2016 as also in the case of **Saraswati Devi vs. The State of Bihar & Ors.** in **C.W.J.C. No. 21724 of 2012** dated 21.04.2015.

Learned counsel for the State is not in position to dispute the fact that as per the said decisions, payment of pensionary benefits, including family pension, is liable to be paid by the State. However, he submits that the writ application has been filed after 10 years of the death of her husband.

Having considered the rival contentions, the preliminary objection on behalf of the State is rejected for the reason that the right to pensionary benefits is a continuing right and cannot be taken away due to passage of time. Accordingly, adopting the reasoning given in the order dated 23.06.2015 passed in L.P.A. No. 1211 of 2015 as well as order dated 21.04.2015 passed in C.W.J.C. No. 21724 of 2012, the writ petition stands allowed in similar terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA