IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2571 of 2014

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1. Seema Devi W/O Late Banwari Ram Resident Of Village- Mangala Gauri, P.O- Chand Chaura, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Secretary, Urban Development Department, Bihar, Patna.
2. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha
For the Respondent/s : Mr. Alok Kumar, SC11
For Gaya Municipality : Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

4 12-05-2016 Heard learned counsel for the petitioner and learned counsel for the State as well as learned counsel appearing on behalf of the Gaya Municipality.

The petitioner is a wife of late Banwari Ram who after working for more than 38 ½ years died in harness on 1.1.2004. The petitioner submits that initially she was granted family pension from 2.1.2004 to 31.7.2008. Thereafter, the same has been stopped in contravention of Rule 35 of the Patna Municipal Corporation Officers and Servants Pension Rules, 1986, which is also applicable to the employees of the Gaya Municipal Corporation.

The petitioner submits that in terms of letter, dated

19.4.1996 of Urban Development Department, the employees of the Corporation were to be granted same pay scale and facility as admissible to the government employees.

Learned counsel for the Gaya Municipal Corporation submits that in view of weak financial position of the Corporation, they have not adopted the pay scale admissible to the government employees with respect to their own employees. He further submits that the petitioner would not be entitled to family pension beyond the period of 5 years from the date on which the deceased employee died in harness.

I have heard counsel for the parties.

The petitioner’s husband died in harness after working 38 years 9 months on 1.1.2004. As per rule 35 of the Patna Municipal Corporation Officers and Servants Pension Rules, 1986, the family pension would not be extended beyond the period of 5 years, from the date on which the employee died or would have retired. However, an employee can serve in the Corporation for maximum period of 40 years and if the deceased was alive, he would have retired on 1.4.2005.In such circumstances, family pension would not have extended beyond the period of 5 years, which lapsed sometime in Middle June, 2008 and as such the claim of the petitioner for continuance of family pension beyond the period of five years cannot be granted.

So far as payment of salary at par with the government employees is concerned, the stand of the Corporation is that the same has not been adopted in view of paucity of fund. Once the same is adopted by the Corporation, the petitioner would too be entitled to the said benefit.

With the aforesaid observations and directions, this writ application stands disposed of.

(Samarendra Pratap Singh, J)

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