

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.608 of 2015

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Mostt. Pawan Devi wife of Late Sabital Paswan, Resident of Village- Rampur,
P.S.- Simri Bakhtiyarpur, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Public Health Engineering (P.H.E.D.), Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Special Secretary, Department of P.H.E.D., Bihar, Patna.
3. The Chief Engineer (Mechanical), P.H.E.D., Bihar, Patna.
4. The Superintending Engineer, P.H.E.D., Anchal- Saharsa.
5. The Executive Engineer, P.H.E.D. Divisional Office, Saharsa.
6. The Sub-Divisional Officer, P.H.E.D. Sub-Divisional Office, Simri-Bakhtiyarpur, Saharsa.
7. The District Provident Fund Officer, Saharsa.
8. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Accountant General : Mr. L.P.K, Rajgriha, Advocate
For the State : Mr. Sunil Kumar Mandal. S.C.-3
: Ms. Neelam Kumari, A.C. to S.C.-3
: Mr. Bipin Kumar, A.C. to S.C.-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 30-11-2016

In the present writ petition the claim of the petitioner is for grant of family pension, gratuity, leave encashment, general provident fund and group insurance with up-to-date interest.

2. It is contended that the husband of the petitioner, namely, Sabital Paswan was engaged as Tubewell Khalasi on 16.4.1977 in work charged establishment. He died in harness on 22nd March, 1978. However, his service was regularized with effect from 16.4.1982 and, thus, the petitioner has submitted her application on 26.2.1988 for payment of death-cum-retiral dues and compassionate appointment of



her son.

3. It is contended that vide order dated 4.10.1994 death-cum-retiral benefit including family pension was sanctioned, but the same has not been paid to the petitioner till date.

4. In reply, learned counsel for the State has submitted that after the death of the petitioner's husband, the petitioner was paid her entitlement under group insurance, leave encashment and general provident fund. However, the other claims of the petitioner were not admissible and, as such, the same were denied. He has further contended that the writ petition is not maintainable on the ground of delay and laches on the part of the petitioner herself.

5. I have heard learned counsel for the parties and perused the materials available on record.

6. Admittedly, the petitioner was appointed in work charged establishment of the Public Health Engineering Department (for short 'PHED') as Nalkoop Khalasi on 16th April, 1977 and died on 22nd March, 1987 while working in work charged establishment. He was erroneously brought to the regular establishment along with twenty six other employees working in the work charged establishment vide order as contained in memo no.1290 dated 21.12.1987 passed by the Executive Engineer, PHED, Saharsa. Subsequently, it came to the notice of the respondents that he was not alive on the date of passing of the order and, therefore, his service was



not considered in regular establishment which was reported to the Chief Engineer (Design), PHED, Patna, vide letter no.541 dated 9.6.2000 issued by the Executive Engineer, PHED, Saharsa. It has rightly been contended by the learned counsel for the State that the application has been filed by the petitioner after inordinate delay of twenty eight years. The delay caused in filing the writ petition has not been explained. Though the writ petition is fit to be dismissed on the ground of delay and laches alone, I find from the pleading of the parties and the arguments advanced before the Court that the petitioner is otherwise also not entitled for the reliefs prayed in the present writ petition for the simple reason that a person having died in work charged establishment before any order for regularization having been issued in the life time is not entitled for regularization and pension.

7. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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