

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6642 of 2015

Uma Pandey widow of Late R.N. Pandey, resident of Flat No. 036, Basudeo Bihar Colony, Nageshwar Colony, Patna- 800001.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat Building, Patna 800015.
3. The Additional Secretary, General Administration Department, Government of Bihar, Old Secretariat Building, Patna 800015.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Advocate
: Mr. Ambuj Nayan Chaubey, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P.-7
: Mr. S.K. Sarat, A.C. to G.P.-7

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-11-2016

Heard Mr. Ashok Kumar Garg, learned counsel for the petitioner and Mr. Vivek Prasad, learned Government Pleader for the State.

2. The petitioner has made her prayer in paragraph-1 of the writ petition as under:

“1.That the petitioner begs to invoke the equitable jurisdiction of this Hon’ble High Court, inter alia, for grant of following reliefs:-

- (i) For issuance of an appropriate, order or direction including a writ in the nature of certiorari quashing the order dated 2.1.2015;
- (ii) For issuance of an appropriate writ, order of direction commanding the respondents to sanction and pay the post retiral family pension to the widow-petitioner in accordance with law;

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- (iii) For issuance of an appropriate writ, order of direction *ex debito justitia* in favour of the widow-petitioner;
 - (iv) Any other relief or reliefs be granted to the petitioner as he is legally entitled in the facts and circumstances of the case.

3. The husband of the petitioner, who was Sub Divisional Officer at Araria was departmentally proceeded against for misconduct, which resulted in the order of dismissal from service on 9th March, 1992. He approached this Court by filing CWJC No.1169 of 1998 challenging the aforesaid order of dismissal. The said writ petition was dismissed on 25th July, 2000 holding, inter alia, as follows:-

“21. In this respect, I give liberty to the petitioner to move before the State (Secretary of the Department) to ventilate his grievance relating to quantum of punishment.

22. If any representation is filed by the petitioner to convert the punishment of dismissal as a compulsory retirement by way of punishment with effect from 9th March, 1993, the said authority is expected to decide the same, taking a lenient view, in view of the fact that no loss of State exchequer shown in the charge-sheet.

23. If any such representation is filed, the State through the Secretary of the Department will decide the same within three months from the date of receipt of representation and, if so required, may review the punishment order dated 9th March, 1993 and modify the same. In such case of representation, the decision so taken, be also communicated within the aforesaid period of three months.”

4. Being aggrieved with the order passed in CWJC No.1169 of 1998, he filed LPA No.1206 of 2000 before this Court. During the

pendency of the appeal, he died on 8th March, 2003 leading to filing of Interlocutory Application No.3536 of 2005 by the petitioner which was allowed and the petitioner was ordered to be substituted in place of her husband in the appeal.

5. By order dated 20th March, 2008, a Division Bench of this Court dismissed the aforesaid L.P.A. No.1206 of 2000 holding, inter alia, as under:-

“7. It appears to us that the materials on record are convincing and adequately prove the charges. We are equally convinced that the charges held to have been proved by the learned Enquiry Officer do constitute misconduct. We are further of the view that the gravity of the proven charges merit petitioner's dismissal from the service. We do not discern any infirmity in the enquiry proceedings.

8. In the result, we do not find any merit in this appeal and is accordingly dismissed. There shall be no order as to costs.”

6. After disposal of the Letters Patent Appeal on 20th March, 2008, a representation was filed by the petitioner before the Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna in terms of the direction passed in CWJC No.1169 of 1998 seeking grant of pensionary benefits to the petitioner. The said representation was duly considered by the respondents and was rejected on 30th December, 2014.

7. Being aggrieved by rejection of the representation, the petitioner has filed the present writ petition praying for the same

reliefs which were rejected by this Court earlier.

8. Having heard learned counsel for parties, I find that the order passed by the authority was found fully justified by a Division Bench of this Court in L.P.A. No.1206 of 2000. The Division Bench has categorically held that the gravity of the proven charges merit petitioner’s dismissal from service. Once the Division Bench of this Court has opined that the dismissal order passed against the husband of the petitioner was legal and valid, the prayers made by the petitioner in the present application cannot be allowed.

9. Accordingly, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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