

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.418 of 2014

Arising out of Civil Writ Jurisdiction Case No. 11862 of 2013

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1. Jai Mani Devi, W/O Late Nawal Kishore Singh, Resident Of Village-
Kurkuri, P.S- Paliganj, District- Patna Appellant

Versus

1. The State Of Bihar Through The Chief Secretary Government Of Bihar,
Patna
2. The Secretary, Cum- Commissioner, Irrigation Department, Government
Of Bihar, Patna
3. The Finance Secretary, State Government Of Bihar, Patna
4. The Chief Engineer, Irrigation Department Government Of Bihar (Sone
High Level Canal Anchal Aurangabad District)
5. The Superintending Engineer (Sone High Level Canal Anchal,
Aurangabad, District- Aurangabad)
6. The District Magistrate, District Aurangabad (Bihar)
7. The Additional Collector Revenue Sub- Division Aurangabad, District-
Aurangabad
8. The Executive Engineer Irrigation Department Sone High School Level
Canal Anchal Aurangabad District
9. The Accountant General, Bihar, Patna
10. The District Provident Fund Officer, Government of Bihar, Patna
11. The Treasury Officer, District- Aurangabad Respondents

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Appearance :

For the Appellant : Mr. Raj Kumar Mishra, Adv.

For the Respondents : Mr. Anil Kumar Singh, GP 26 with
Mr. Arvind Kumar Singh, AC to GP 26

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

**HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

7 18-08-2016

The order, dated 19th November, 2013, passed by the
learned single Bench is subject matter of challenge of the present
appeal.

The appellant claims family pension after death of
her husband on 21st October, 1983.

The learned single Bench found that appellant is not
entitled for family pension in view of insufficient length of
service.

The learned counsel for the appellant relies upon
Circular of the State Government, dated 29th July, 1980, which
contemplates that Family Pension Rules, 1964, would be
applicable to those Government's servants who have, at least,

completed one year of service. It has been decided that this condition would not be applicable if the employee has been medically examined and that he has not been found unfit for regular appointment.

We do not find that such Circular is applicable in the case of the husband of the appellant. The claim of the petitioner for the family pension has been examined in terms of an earlier order passed by this Court in C.W.J.C. No. 11846 of 2010. It has been found that the husband of the appellant was a patient of chronic asthma and died on 21st October, 1983, of cardiac respiration failure. He was engaged on 02.10.1981 against a purely temporary post which could, at any time, be terminated without notice. It has been found that the deceased husband of the appellant remained on leave from 01.02.1981 to 31.08.1982 and was never regularly appointed. It has been also found that he has worked without recommendation of the new selection committee. It has been also noticed that since the husband of the appellant was never appointed on regular basis, therefore, the appellant will not be entitled to benefit of family pension in terms of Circular of the State Government, dated 29th July, 1980. There was no medical test conducted before his appointment.

In view of the findings recorded, we do not find any merit in this appeal.

The Letters Patent Appeal is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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