

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9681 of 2013

Brinda Devi, Widow of Late Shyam Sunder Tiwary, Resident of Village- Naraina,
P.S- Bounsi, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through, the Chief Secretary, Bihar, Patna.
2. The Secretary- Cum- Commissioner, Building Construction and Housing Department, Govt. of Bihar, Patna.
3. Engineer- in- Chief, Building Construction and Housing Department, Govt. of Bihar, Patna.
4. Chief Engineer, Building Construction and Housing Department, Govt. of Bihar, Patna.
5. Additional Commissioner- cum- Engineer in Chief, Building Construction and Housing Department, Govt. of Bihar, Patna.
6. Superintending Engineer, Building Construction and Housing Department, Circle, Bhagalpur.
7. Executive Engineer, Building Construction and Housing Department, Bhagalpur, Division, Bhagalpur.
8. Executive Engineer, Building Construction and Housing Department, Bhagalpur Division, Banka.
9. Secretary- cum- Commissioner, Personal and Administrative Reforms Department, Bihar, Patna.
10. Secretary- cum- Commissioner, Public Works Department, Bihar, Patna.
11. Secretary, Rural Development Department, Bihar, Patna.
12. Chief Engineer, Rural Engineering Organization, Bihar, Patna.
13. Executive Engineer, R.E.O., Works Division, Munger
14. Superintending Engineer, R.E.O., Works Circle, Bhagalpur.
15. Commissioner, Bhagalpur Division, Bhagalpur.
16. Collector, Bhagalpur.
17. Collector, Banka
18. S.D.O., Civil, Banka.
19. S.D.O. Building Construction and Housing Department, Banka.
20. A.G., Bihar, Patna.

.... Respondents

Appearance :

For the Petitioner	:	Dr. Kislay, Advocate Ms. Archana Jha, Advocate
For the State	:	Mr. Arvind Ujjwal, S.C.4 Mr. maruth Nath Roy, A.C. to S.C.4
For A.G.	:	Mr. Ajit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-08-2016

Heard learned counsel for the petitioner and learned counsel for the State.

The case of the petitioner is that her husband was appointed as daily wages employee on the post of Chaukidar (4th Grade) from 15.6.1979 to 23.9.2003 and he died during in the service period. Altogether 24 years of service has been discharged by the husband of the petitioner. The petitioner has moved this Court in C.W.J.C. No.1106 of 2005 and also approached this Court in contempt application in M.J.C. No.877 of 2009 for non-compliance of the writ order, the direction was given to consider a case whereupon the Secretary, Personnel and Administrative Reforms Department has rejected the claim of the petitioner vide order dated 28.4.2009. In the order, it has been mentioned from the cheque slip, it appears that the husband of the petitioner was appointed by the Executive Engineer, R.E.O., Works Division, Munger, who was the appointing authority but the claim of the petitioner has been rejected on the ground that the information was not being given to the Secretary as to whether that officer was empowered to appoint the petitioner or not at the relevant time and further it has been said that there is nothing on record to show that the post was approved and





there was any order for such appointment. This information was lying with the Department and the Secretary of the Department would have easily procured the information from the Department itself but instead of exercising this power the claim of the petitioner has been rejected. One of the ground has been shown that the petitioner was not remained present without any information.

Be that as it may, it appears that the husband of the petitioner was in 24 years service and that too without intervention of the Court.

In such situation, if the order dated 28.4.2009 is set aside and the matter is remanded back to consider the case again in terms of paragraph-53 of **Secretary, State of Karnataka and others Vs. Uma Devi (3) and others [(2006) 4 S.C.C.1.]**. While considering the case of the petitioner, the Secretary will keep in mind as to whether there was any Rule and Regulation has been framed by the State Government for appointment of any person on daily wage employees. If no such rule was there, then the question would arise, how long authority will keep an employee on daily wages basis.

Let the Secretary, Personnel and Administrative Reforms Department look into the grievance of the petitioner,

while considering the case of the petitioner, proper notice will be given to her and she will be at liberty to represent her case of her own or through her advocate/representative.

With this observation, this application is allowed.

(Shivaji Pandey, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06-09-2016
Transmission Date	