

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1717 of 2015

In

Civil Writ Jurisdiction Case No. 21724 of 2012

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1. Saraswati Devi W/o Late Kanhaiya Singh, Resident of village + P.O.-
Naya Panapur, P.S.- Akilpur, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Energy, Government of Bihar,
Irrigation Building, Old Secretariat, Patna
3. The Engineer-in-chief, Energy Department, Irrigation Building, Old
Secretariat, Patna
4. The Chief Engineer, Energy Department, Irrigation Building, Old
Secretariat, Patna
5. The Superintending Engineer (Electrical), Electrical Works Circle, South
Bailey Road, Patna
6. The Executive Engineer, Electrical Works Division, South Bailey Road,
Patna
7. The Assistant Engineer, Sub Divisional Office, Patna II, South Bailey
Road, Patna

.... Respondent/s

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with

Civil Review No.206 of 2015

IN

Civil Writ Jurisdiction Case No. 21724 of 2012

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1. The State Of Bihar
 2. The Principal Secretary, Department of Energy, Govt. of Bihar, Irrigation
Building, Old Secretariate, Patna.
 3. The Engineer-in-Chief, Energy Department, Irrigation Building, Old
Secretariate, Patna.
 4. The Chief Engineer, Energy Department, Irrigation Building, Old
Secretaries, Govt. of Bihar, Patna.
 5. The Superintending Engineer (Electrical), Electrical Works Circle, South
Bailey Road, Patna.
 6. The Executive Engineer (Electrical), Electrical Works Circle, South
Bailey Road, Patna.
 7. The Assistant Engineer, Sub Divisional Office, Patna-II, South Bailey
Road, Patna.

.... Petitioner/s

Versus

1. Saraswati Devi Wife of Late Kanhaya Singh Resident of Village + P.O. -
Naya Panapur, P.S. - Akilpur, District - Araria.

.... Respondent/s

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Appearance :

(In MJC No.1717 of 2015)

For the Petitioner/s : Mr. Bishnu Kant Dubey

For the Respondent/s : Mr. Anil Kr Uapdhyay

(In C. REV. No.206 of 2015)

For the Petitioner/s : Mr. Yashraj Bardhan

For the Respondent/s : Mr. Bishnu Kant Dubey

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and**HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

3 16-02-2016

Both the modification petition as also the civil review

application has been filed for recalling/modifying or the review of the order dated 21.04.2015 passed in CWJC No.21724 of 2012.

By the order dated 21.04.2015, the writ petition was allowed and the respondents were directed to sanction and pay family pension and gratuity to the petitioner on account of the service rendered by her husband and it was further directed that since the liability to pay was fixed upon the State Government for the first time and law was not clear on this aspect, therefore payment of family pension and gratuity shall be prospective in nature with effect from 1st May, 2015 and further denied all other reliefs to the petitioner except family pension and gratuity.

The stand of learned counsel for the writ petitioners is that since the petitioners had been found entitled to the relief, hence the benefit of arrears of family pension should not have been denied for the period prior to 01.05.2015.



It is further submitted that it was wrongly stated in the order sought to be reviewed that the liability to pay the pension was fixed for the first time as there was an earlier full Bench decision of this Court in the case of ***State of Bihar and Anr. V. Bhagwan Singh (since dead): 2014(4) PLJR 229.***

From a perusal of the aforesaid decision, we find that in the said case the only issue raised was as to whether the service rendered as daily wager prior to entry in the work charged establishment could be counted and the factum of grant of pension was not at all in dispute. Thus, the issue as to whether the work charged employee was entitled to pension was neither raised nor decided in the said full Bench decision in the aforesaid case.

So far as the stand of the State is concerned, it is based upon a decision of the Supreme Court in the case of ***State of Haryana And Others v. Shakuntala Devi: (2008) 15 SCC 380,*** relying upon paragraphs 45 and 46 therein. From a perusal of the said judgment it is evident that the said decision has been rendered on the basis of rules and circulars of the Government of Haryana and thus reliance upon a decision of the Supreme Court on the basis of rules and circulars prevailing in another state can be of no avail so as to hold that there is any error on the face of the order.

For the aforesaid reasons, we do not find any merit either

in the modification petition or in the civil review application. Both
the applications are, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

B.Kr./-Sudip

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