

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7727 of 2017

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1. The Union Of India through the Chairman cum Managing Director, BSNL, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, New Delhi- 110001.
 2. The Chief General Manager Telecom, BSNL, Bihar Circle, Patna- 800001.
 3. The Dy. General Manager (Admin.), Office of the CGMT Bihar Circle, Patna- 800001.
 4. The Asstt. General Manager (Admin.), Office of the CGMT, Bihar Circle, Patna- 800001.
 5. The Telecom District Manager BSNL, Begusarai- 851211.
 6. The Controller of Communication Accounts, CTO Annex, Building Sanchar Parisar, Patna- 800 001.
 7. The Deputy Controller of Communication Accounts, CTO Annex, Building Sanchar Parisar, Patna- 800 001.
 8. The Dy. General Manager (Vigilance), Office of the Chief General Manager Telecom Bihar Circle, Patna- 800 001.

.... Petitioner/s

Versus

Soni Devi, Widow of late Harikant Jha, resident of Village/Mohalla- P.O.- Mohabba, P.S.- Shahpur Kamal, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Prasad Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 07-08-2017

O.A. No.738 of 2014 was filed on behalf of the widow of one late Harikant Jha for grant of benefit of family pension etc. The same was allowed by the Tribunal vide order dated 11.09.2015. The BSNL, therefore, has filed the writ application challenging the order.

Some facts does not seem to be much in dispute that the husband of the private respondent late Harikant Jha became a regular



Mazdoor after having worked as casual labour since January, 1984. He was confirmed temporary status on 01.08.1998 and regularized on 01.10.2000. He finally died on 01.02.2008. This fact has been culled out from the records and pleadings available before the CAT Bench.

The present petitioners tried to resist the order in favour of the widow for grant of family pension but the Tribunal was pleased to observe and say as under:-

“8. Regarding the question of presidential order BSNL’s letter dated 10.04.2006 issued from corporate office to all the Heads of Circles states that “.....it has been decided that all TSMs/casual labourers including those appointed on compassionate grounds who have been regularized on or after 01.10.2000, will be treated as BSNL employees and as such presidential orders for absorption in BSNL are not required to be issued”.

9. Thus, the procedural requirement of issuing of a presidential order to treat them as BSNL employees was no longer necessary in terms of the said circular dated 10.04.2006 which came about two years before the death of Harikant Jha.

10. All these facts lead to a consistent conclusion that Late Harikant Jha started as a casual labour, after 14 years was granted temporary status and after two further years was granted regularization. As explained in the earlier paragraphs, the respondents can at best claim that the grant of TSM was under the



direction of the Tribunal. They cannot take this plea that after 3 years also they granted the Regular Mazdoor status on the Tribunal's direction.

11. Thus, the only ground left to the respondents is the alleged forged documents of late Harikant Jha. He was alive for at least 8 years when the respondents had this doubt about him. It is not known what was the status of the said enquiry or proceedings till the date of his death. Now that he has passed away, the enquiry automatically abates and, thus, no adverse finding can be made against him. Therefore, this matter has to be decided on the basis of the other materials available on records. As explained in the foregoing paragraphs, these go in the favour of the applicant's husband that he indeed progressed from causal status to temporary status to regularization."

From the narration of the facts, culled out from the order of the Tribunal, there is no scope for any argument for the present petitioners to deny the benefit of family pension to the private respondent. In fact, we come to a considered opinion that it is a lame effort on the part of the BSNL authorities to shirk from liability by refusing to pay family pension to the widow when a status had already been acquired by the husband of the private respondent, in the manner specially talked about in paragraph 8 and 9 of the order of the Tribunal.



There cannot be two different yardsticks in the matter of applicability of the direction of the presidential order coupled with the fact that the husband of the private respondent was given status of regular Mazdoor and the effort to find fault with the grant of such status on the so-called forged employment card did not throw up any result for almost eight years and till death of the said employee.

In totality of the facts, the Tribunal was not left with any option but to allow the O.A. and direct for grant of family pension and other retiral dues.

The writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	10.08.2017
Transmission Date	

