

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11435 of 2017

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1. The Union of India through the Director General of Posts, Department of Post, Dak Bhawan, New Delhi.
 2. The Member (Postal), Ministry of Communication, Department of Post, Government of India, Dak Bhawan, New Delhi.
 3. The Chief Post Master General, Bihar Circle, Patna (Bihar).
 4. The Post Master General, Northern Region, Muzaffarpur (Bihar).
 5. The Superintendent of Post Offices, Champaran Division, Motihari (Bihar).
 6. The Director of Accounts (Postal), Patna- 800001 (Bihar).

.... Petitioner/s

Versus

Smt. Ram Kali Devi, Wife of Late Nathuni Sah, Resident of Village/ Post-Manguraha, District- East Champaran (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Sharan, A.S.G.
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: 11-09-2017

Heard learned Assistant Solicitor General for the Union of India who is aggrieved by the order dated 22.03.2017 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A.664 of 2015. Since the O.A. is allowed with a direction to pay the remaining retiral dues and family pension from the due date to the applicant, who is private respondent in the present writ application, the order of Tribunal is being challenged.

The core submission of the counsel for the Union of India is that since the service of the husband of the private respondent



was not regularized, therefore the widow is not entitled to get any kind of benefit much less the family pension.

The Tribunal had given reasons for allowing the O.A. because in similar and identical situation adjudication had been made in favour of the previous applicants one of them being O.A. 113 of 2006 decided on 21.09.2006 which was affirmed by even Patna High Court vide order dated 07.11.2007 in CWJC No.4475 of 2007 and the order of the Patna High Court has been affirmed by the Hon'ble Apex Court on 04.12.2009.

Even recently a similar kind of litigation had travelled from O.A. 900 of 2012 in CWJC No.10978 of 2017 and this Division Bench vide order dated 04.09.2017 had upheld the direction issued by the Tribunal which had extended the benefit of the pension where the issue was also with regard to old and new pension scheme. The factual position is that the husband of the petitioner was granted temporary status at par with Group-D employees as far back as on 29/30.11.1992 and he died in harness on 17.04.2015 i.e. after completion of more than 25 years of service. The fact is that 50% of the period even in temporary status begets the benefit of pension.

The stand of the Union of India is that the employee never got regularized. The Court is not impressed by such a submission for the reason that it was failure on the part of the



Postal Department not to regularize the service of the husband of the private respondent in 23 years of service after having been granted temporary status at par with Group-D employees. The failure is on the part of the Postal Department authorities, whose conduct cannot be appreciated or ignored.

In the consistency of decision making, the Court refuses to interfere with the order of the Tribunal. Writ is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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