

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.725 of 2016

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Saraswati Devi, Wife of Late Chandrashekhar Thakur, resident of Lohargama, P.S. Sakra, District – Muzaffarpur.

.... Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Department of Human Resources Development, (Now Education), Government of Bihar, Patna.
2. Director, Secondary Education, Department of Human Resources Development, (Now Education), Government of Bihar, Patna
3. Deputy Director of Secondary Education, Budh Marg, Patna
4. District Education Officer, Vaishali, Hajipur

.... Respondents

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Appearance:

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate.
Mr. Avinash Kumar, Advocate.
Mr. Imteyaz Ahmed, Advocate.

For the State : Mr. Sanjay Kumar Giri, GP-9.
Mr. Nikhil Kumar Agrawal, AC to GP-9.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 16-01-2017

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 16th of March, 2016 whereby, the claim of the appellant for regularization of services of her husband, consequent payment of salary and other benefits came to be dismissed.

2. Sri Chandrasekhar Thakur, husband of the appellant was appointed as Assistant Teacher of a project school located at Goraul. He sought regularization of his services along with other teachers of such other project schools.



3. Full Bench of this Court in a Judgment reported as 2000 (1) PLJR (FB) 287 (Project Uchcha Vidyalaya Shikshak Sangh v. State) directed for regularization of services of the teachers of the project schools. The State went in appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the Appeal (Civil) No. 6626-6675 of 2001 on 3rd of January, 2006 in a judgment reported as (2006) 2 SCC 545 (State of Bihar v. Project Uchcha Vidya Shikshak Sangh) and directed a committee to be constituted to consider regularization of the teachers of the project schools. But before the decision of the Hon'ble Supreme Court, the husband of the appellant had died on 07.07.2003.

4. It is, thereafter, the appellant sought regularization of services of her husband by filing a writ application which has since been dismissed. The learned Single Bench has rightly found that the services of the dead person cannot be regularized. The committee could consider the request of the regularization only if the husband of the appellant was alive and so as to consider his eligibility for regularization.

5. Learned counsel for the appellant contends that the committee has found the period of engagement of her husband from 01.01.1989, therefore, the services of the deceased husband of the appellant are to be regularized from that day till the date of death and



she is consequently entitled of the salary for the said period as legal heir.

6. We do not find any merit in the said argument as well. The school in question was a private school which was taken over by the State Government. The State Government would be liable to pay the salary, only if the committee finds that a candidate is eligible for regularization.

7. A person who has died cannot be considered for regularization, as the right of regularization vest with the living person and not with a dead person. Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

Mishra

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