

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15360 of 2015

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Most. Rajwati Devi widow of late Chandradeo Prasad Yadav resident of village Mathia, Police Station Basopatti, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary to the Government, Building Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna - 800001.
2. The Deputy Secretary, Building Construction Department, Vishwashwaraiya Bhawan, Bailey Road, Patna - 800001.
3. The Chief Engineer, Building Construction Department, Vishwaswaraiya Bhawan, Bailey Road, Patna - 800001.
4. The Superintending Engineer, Building Circle, Chapra, District Chapra.
5. The Executive Engineer, Building Division, Chapra, District Chapra.
6. The Accountant General, Bihar, Veerchand Patel Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lalan Kumar Singh, Advocate
For the State	:	Mr. Vijay Kumar Verma, AC to GA 3
For the Accountant General	:	Mr. S. M. Ehtesham, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 24-05-2017

Heard learned counsel for the petitioner, State and the Accountant General.

2. The petitioner is widow of late Chandradeo Prasad Yadav, who was a Daily Wager and thereafter was paid regular pay scale with all admissible allowances in terms of order dated



17.04.1982. He died on 15.08.2011 without being regularized. Thereafter, the petitioner moved for grant of family pension and other death-cum-retiral benefits which remained unpaid.

3. Learned counsel for the petitioner submitted that her husband though initially appointed as Daily Wager was then granted regular pay scale and his service book was also opened. He submitted that the petitioner died in harness on 15.08.2011 due to which later on as per the policy of the Government 302 Work Charge Employees were observed by order dated 20.02.2014 and many persons junior to the petitioner were also in the list but only because the petitioner's husband was already dead, no such order was passed in his case. Learned counsel referred to various decisions of this Court in the case of **Saraswati Devi v. The State of Bihar & Ors.** (C.W.J.C. No. 21724 of 2012) dated 21.04.2015 which has been affirmed by the Hon'ble Supreme Court and Review filed before the Hon'ble Supreme Court has also been dismissed as well as the order dated 23.06.2016 passed in L.P.A. No. 1211 of 2015 (**The State of Bihar & Ors. v. Md. Matin & Anr.**).

4. Learned counsel for the State, relying upon his counter affidavit submitted that in view of the Full Bench decision of this Court in the case of **Durganand Jha v. State of Bihar** reported as **2007(4) PLJR 259 (F. B.)**, the service of the petitioner's husband



cannot be regularized and thus, she is not entitled to family pension and other death-cum-retiral benefits in view of her husband not being a regular employee.

5. Learned counsel for the petitioner, by way of reply, submitted that the aforesaid Full Bench decision was in a case where the person was seeking regularization and not a case where family pension based on length of service and other factors, as has been decided by the Court in the judgments relied upon by him.

6. Having considered the matter, in view of the fact that L.P.A. No. 1211 of 2015, (supra) which was filed by the State was dismissed by a Division Bench of this Court, of which this Court was a member, and which was against the order by which the State was directed to take final decision regarding payment of pension to the writ applicant, this Court is also inclined to dispose off the matter in similar terms.

7. Accordingly, the writ petition stands disposed off with a direction to the State authorities to decide the issue regarding payment of pension to the petitioner taking into consideration the decisions rendered in the case of **Saraswati Devi** (supra) and L.P.A. No. 1211 of 2015 (supra).

8. The said decision be taken within four weeks from the date of production of a copy of this order before the respondent no. 5.



Thereafter, if any payment is required to be made, the respondent no. 5 shall ensure that the same is also paid within the next three weeks. The respondent no. 6 shall also ensure that there is no delay on his part in the matter.

(Ahsanuddin Amanullah, J)

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