

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1932 of 2016
IN
Civil Writ Jurisdiction Case No. 15610 of 2014**

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Rekha Devi, wife of late Shashi Bhushan Singh, resident of Village Matihani, P.S. Matihani, District-Begusarai.

.... Pegtitioner-Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Electricity Department, Bihar, Patna.
2. The Chairman, Bihar State Electricity Board, Bailey Road, Patna.
3. The Secretary, Bihar State Electricity Board, Bailey Road, Patna.
4. The Joint Secretary, BSEB, Bailey Road, Patna.
5. The General Manager-cum-Chief Engineer, Electric Supply Area, Gaya.
6. The General Manager, H. R. and Administration South Bihar Power Distribution Company Limited, Patna.
7. The Electrical Executive Engineer, Electric Supply Division, Nawada.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Narayan, Senior Advocate
Mr. Hare Krishna Prasad, Advocate

For the Respondent/s : Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-07-2017

Seeking exception to an order dated 08.09.2016 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.15610 of 2014; this appeal has been filed by the appellant under Clause 10 of the Letters Patent.

The appellant is the wife of late Shashi Bhushan Singh who was working as Choukidar in the Bihar State Electricity Board. It is stated that the husband of the petitioner went missing since 16.01.2002 and, therefore, a police report was filed. Thereafter, the



petitioner filed an application with the Electricity Department seeking compassionate appointment in the year 2005. When the same was not granted, the matter came to this Court in a writ petition and this Court remanded the matter back for fresh consideration. It was directed that the matter be re-examined in the light of certain circular issued by the State Government which has been adopted by the Board. However, on reconsideration, vide order dated 15.04.2014, when Board again rejected the matter, the issue was agitated in the writ petition in question and after going through the reasons that weighed with the Board for rejecting the claim, the Writ Court found that the employee is missing since January, 2002, pension gratuity and other benefits have been settled in favour of the family and now after more than 14 years, compassionate appointment cannot be given as the purpose for compassionate appointment would be frustrated. The learned Writ Court also took note of the reasons that weighed with the authority in rejecting the claim which read as under:-

“In the instant case under consideration, the employee is traceless from 16-01-2002. The family members of the traceless employee have been paid family pension and gratuity. The application of the son and his widow mother for appointment on compassionate ground has already been rejected vide letter NO.5347 dated 16-12-2009 of GM cum CE, Gaya and letter No.152 dated 12-03-2010 of Board respectively. As at the relevant point of time, there was no provision for such appointment; Being aggrieved, the widow



had filed CWJC No.14028/2013 claiming the benefit of Board's circular dated 17-06-10. There does not appear to be any justification to consider appointment on compassionate ground after 12 years of the employee being traceless. Erstwhile BSEB circular dated 17-06-10 neither can be relaxed in individual case nor it can be given retrospective effect.

Thus, the claim of the petitioner for appointment of his son Sri Rausan Kumar on compassionate ground is not covered under erstwhile BSEB circular dated 17-06-2010 and the same time it does not have any merit."

Even though, learned counsel tried to indicate that the learned Writ Court and the Board lost sight of the fact that the claim of the petitioner was not considered in the light of the requirement of the Circular of the State Government dated 31.10.2008 which was adopted by the Board and the learned Writ Court in the earlier writ petition had directed the Board to consider the matter in the backdrop of the aforesaid Circular, we find that in the reasons, as are indicated in the order in question dated 15.04.2014 reproduced hereinabove, all aspects of the matter with regard to issue of grant of compassionate appointment have been considered and we find no reason to make any indulgence into the matter now with regard to grant of compassionate appointment to the family members of the employee in question.



The learned Writ Court and the Board having adverted to consider all relevant factors in accordance with law, we are not inclined to interfere in the matter on the ground canvassed. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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