

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1730 of 2016

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Most. Rajeshwari Devi Wife of Late Brajmohan Rai resident of village - Khaira
Bazar, Post office and Police Station Kinjar, District - Arwal

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary to the Government, P.H.E.D., Bihar, Patna, Bisheshwwaraiya Bhavan, Bailey Road, Patna
2. The Chief Engineer (Mechanical), P.H.E.D., Bihar, Patna, Bisheshwwaraiya Bhavan, Bailey Road, Patna
3. The Superintending Engineer, Mechanical, Public Health Mechanical Circle, Veterinary College, Patna
4. The Executive Engineer, P.H. Mechanical Division, Gaya, District - Gaya
5. The Accountant General, Bihar, Veerchand Patel Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Respondent/s : Mr. AAG13-A.K.CHAUDHARY

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsel for the petitioner, State and learned
counsel for the respondents.

This writ application was filed on 25th Jan, 2016 after
service of two copies of writ application on the office of Advocate
General.

The petitioner in the instant case has prayed for a direction
to the respondent to grant family pension and other retiral dues.
Husband of the petitioner was initially appointed on the Class –IV
post in the year 1988. He was absorbed in the regular establishment
vide memo no. 1111 dated 30th November, 2006. Husband of the



petitioner died on 26/12/2009. This writ application has been filed in view of the decision dated 16.11.2013 which was issued by the PHED Department, Government of Bihar.

Counsel for the petitioner submits that the case of the petitioner is covered by various judgement of this court as well as the apex court whereas, the service rendered by work charge employee after absorption was counted for the purpose of pensionary benefit.

Learned counsel for the respondent submitted that the office of Accountant General has issued letter to the respondent District Magistrate and the Executive Engineer, but there is no response and as such the claim of the petitioner for pensionary benefit has not been finalized at the end of the Accountant General. He has produced before this court letter dated 07.09.2017 which was issued by the Dy. Accountant General wherein reference was made with regard to the communication of District Magistrate, Gaya with copy to the Executive Engineer PHED, Gaya. The letter dated 07.09.2017 is kept on record.

From perusal of the said letter it appears that correspondence between the Accountant General and the District Magistrate and the Executive Engineer PHED, Gaya is going without any result. Since the husband of the petitioner died in the year 2009 we are in 2017. The State Government professes social security



measures as its top priority and has issued several guidelines for expeditious disposal of the pensionary claim. The guideline issued by the State Government appears to be only glorifying the books containing such guidelines, the ground reality is just opposite. There is need to change the attitude of the officer connected with the decision making process they have to realize that pension is no more bounty as hold out by the apex court in its various judgement. Somebody has to take responsibility on behalf of the State and decide the pensionary claim of retired employees. High Court is flooded with the litigation relating to pensionary claim this unfortunate scenario is directly attributed to the reluctance of the official of State. In the compelling circumstances, the court is constrained to dispose of this writ application with a direction to the respondent no. 4 Principal Secretary, PHED who shall see that all claims with regard to the pensionary benefits are addressed on priority basis including the case of this petitioner, if a representation is filed by the petitioner along with copy of this order Principal Secreatry is required to take final decision in the light of the latest Judgement of Supreme Court in the case of Habib Khan Vs. State of Uttarakhand (Civil Appeal No. 10806 of 2017) which settled the point that the service rendered as work charge shall also be counted towards the qualifying period for grant of pensionary benefit on account of absorption/regularization in regular



establishment. The respondent Principal Secretary is also required to fix accountability of concerned officer to ensure payment of entire pensionary benefit within a period of three months from the date of filing of such representation. In the event of admissible pensionary benefit are not paid to the petitioner the entire pensionary benefit will carry interest at the rate of 9% p.a from the date of accrual to the date of actual payment and the same shall be borne out from the pocket of the erring officers.

With the aforesaid, this writ application is disposed of.

(Anil Kumar Upadhyay, J)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18/10/2017
Transmission Date	NA

