

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22485 of 2014

1. Ravindra Kumar Singh S/o late Vijay Bahadur Singh
 2. Narendra Kumar Singh S/o late Vijay Bahadur Singh
 3. Nagendra Kumar Singh S/o late Vijay Bahadur Singh
 4. Dharmendra Kumar Singh S/o late Vijay Bahadur Singh
 5. Surendra Kumar Singh S/o late Vijay Bahadur Singh
 6. Shailendra Kumar Singh S/o late Vijay Bahadur Singh
- All are Resident of Village Sedaha, P.O. Sedaha, P.S. Tarari, District- Bhojpur.
7. Sunita Devi D/o late Vijay Bahadur Singh, W/o Bajrang Singh Resident of Village Baddi, P.O. Khudiya, P.S. Khudiya, District Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resources Department Govt. of Bihar, Patna.
3. The Engineer-in-Chief, (South Bihar) Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Irrigation, Patna.
5. The Superintendent Engineer, Design. Planning & Monitoring Circle, Patna.
6. The Executive Engineer, Sone Canal Division, Ara.
7. The District Accounts Officer, Bhojpur at Ara.
8. The Principal Secretary, Finance Department Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Mayanand Jha with Mr. Uday Kumar, Advocates
For the State	:	Mr. Ramadhar Singh, GP 25

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 13-11-2017

Heard learned counsel for the petitioners and State.

2. The original petitioner was the wife of a Clerk, who died in harness on 01.06.2004, while working on the post of Senior Accounts Clerk under the Water Resources Department. Thereafter, she was getting family pension without any controversy. However, suddenly in the year 2010, a lower pay scale was prescribed for Junior Accounts Clerk and even though the husband of the original writ



petitioner was not to be affected, still the same was made applicable in the present case also and recovery was directed. Some other similarly situated persons moved before the Court and it was held that they would be entitled to the pay scale of Senior Accounts Clerk on account of merger of the post of Junior Accounts Clerk with that of Senior Accounts Clerk. The writ petition was filed on 24.12.2014. Subsequent thereto, the original writ petitioner died and was substituted by her heirs. During the pendency of the writ petition the State Government, in the Department of Finance, also came out with resolution contained in Memo No. 3111 (Vi.) dated 25.03.2015 by which it was resolved that the persons appointed between 01.05.1980 to 27.09.1999 would be deemed to have been appointed on the post of Senior Accounts Clerk and pay scale was prescribed with corresponding revision as per the Pay Revision Commission Report. The husband of the ordinal writ petitioner was admittedly appointed as an Accounts Clerk on 12.09.1981 and, thus, it is claimed that now the State Government having itself resolved, they should pay family pension of the original writ petitioner as per her original entitlement and also return the amount deducted from her family pension.

3. Learned counsel for the State on 02.11.2017 had sought one last indulgence from the Court and on his request, the Court, by way of last indulgence, had directed the matter to be listed today at the top of the list today. He is not in a position to controvert the fact



that the husband of the late writ petitioner and father of the present petitioners would be covered under the aforesaid resolution of the State Government dated 25.03.2015.

4. In view thereof, the writ petition stands disposed off holding that the father of the petitioners, i.e., the husband of the deceased original writ petitioner was entitled to the pay scale as prescribed in Clause 5 (i) of the aforesaid resolution of the State Government dated 25.03.2015. The payment of family pension to the original writ petitioner would be based on the aforesaid pay scale as decided by the State Government itself and whatever recovery has been made or less payment made, the same shall be paid to the petitioners, in accordance with law, after proper calculation, within three months from the date of production of a copy of this order before the respondent no. 6.

5. It goes without saying that the payment shall be made after the authorities being satisfied with regard to the correct claimants of the amount since both the original employee as well as his wife are now no more alive.

(Ahsanuddin Amanullah, J)

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