

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7318 of 2014

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Sheela Devi @ Shila Devi, Wife of Late Sidhnath Prasad, Resident of Village + P.O. - Gopalpur, P.S. - Belchhi, District - Patna, presently residing at Village - Sisauna, P.O. + P.S. - Jokihat, District - Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Public Health Engineering Department, Bihar, Patna.
2. The Principal Secretary, Department of Public Health Engineering Department, Bihar, Patna.
3. The Principal Secretary, Department of Disaster Management, Bihar, Patna.
4. The Joint Secretary, Department of Public Health Engineering Department, Bihar, Patna.
5. The Joint Secretary, Department of Disaster Management, Bihar, Patna.
6. The Deputy Secretary, Department of Disaster Management, Bihar, Patna.
7. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna.
8. The Chief Engineer (Mechanical), Department of Public Health Engineering Department, Bihar, Patna.
9. The Zonal Chief Engineer, Department of Public Health Engineering Department Bihar, Patna.
10. The Superintending Engineer, Public Health Engineer Department, Purnea Circle, Purnea.
11. The Executive Engineer, Public Health Division, Araria, District - Araria.
12. The Divisional Account Officer, Public Health Division, Araria.
13. The Assistant Engineer-cum-Sub Divisional Officer, Department of Public Health Engineering Department, Araria Sub Division (East) , District - Araria.
14. The Accountant General (A & E), Bihar, Patna.
15. The District Accounts Officer, Purnea, District Account Officer, Purnea.
16. The Treasury Officer, Araria, District - Araria.
17. The District Magistrate, Araria, District - Araria.
18. The Divisional Clerk, Public Health Division, Araria, District - Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siyaram Pandey
For the Respondent/s : Mr. Raghwanand

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 31-10-2017

Heard both sides.

2. At the request of both the sides this writ petition is



disposed of at the 'Admission' stage, itself, as the pleadings of both the sides are completed.

3. The petitioner seeks following relief:

(i) to take the service of the husband of the petitioner into work charge establishment just after completion of 240 days working period into daily wages/muster roll as was done in case of the other similarly situated persons.

(ii) to grant promotion to the husband of the petitioner from the post of Nalkoop Khalasi to the post of Work Sarkar/work inspector as has been done in the case of similarly situated persons or juniors to him.

(iii) To regularise the service of the husband of the petitioner on 02.01.1991 just after completion of 10 years service of the husband of the petitioner in the work charge establishment i.e. 01.01.1981 as has been done in case of other similarly situated persons.

(iv) To grant the First and Second A.C.P. to the husband of the petitioner.

(v) To grant the payment of the amount of honorarium and amount of ex-gratia to the tune of Rs. 10 Lacs for which the petitioner is legally entitled for as her deceased husband (employee) during the relevant period of his death was deputed on duty for flood relief works at flood, relief camp by respondent authorities knowingly and intentionally since he was handicapped and was deputed at flood relief camps which caused and lead to his death for which special honorarium and ex-gratia amount are payable to the employees or their heirs.

(vi) to revise the payment of all retiral-cum-death benefits including Family Pension, gratuity, Leave Encashment as per the recommendation of sixth pay revision.

(vii) To pay the arrear of salary from 01.01.1981 to 20.01.2009 to the petitioner after the death of her husband who died in harness on 20.01.2009 as has been done in the case of similarly situated persons of the Public Health and Engineering Department.

4. The husband of the petitioner was firstly appointed on daily wages in the Public Health and Engineering Department, later on he was directed to work on work-charge and consequently his



service was regularized. After death of husband of the petitioner in the year 2009, the petitioner filed C.W.J.C. No. 2246 of 2012 for payment of death-cum-retiral benefits including family pension, gratuity, leave encashment and PF amount. The aforesaid writ petition was allowed holding that the petitioner was working before 2005 on work-charge and, therefore, he is entitled to get pension and other retiral benefits, but no order was passed with regard to in-service benefits, like ACP and difference of salary as the petitioner claims that her husband should have been regularized in service after completion of ten years of service in work-charge. Her husband is entitled to get other benefits also, but I do not find any force in the submission of learned counsel for the petitioner on this ground alone that the husband of the petitioner was regularized in the year 1991 on the post of work-charge. The petitioner claimed that his junior was regularized much before the regularization of the petitioner, but the husband of the petitioner did not raise any objection during his service period and till his death in the year 2009, nor filed writ petition for claiming in-service benefits.

5. The petitioner has secondly prayed that the petitioner is entitled to get ex-gratia payment of Rs. 10 lakh on account of death of her husband, who was deputed on duty for flood relief works, in view of the Government resolution, as contained in Memo No. 1441



dated 10.10.2013 (Annexure-16). Clause-3 of the aforesaid resolution of the Finance Department, Government of Bihar says that if a person who was on active service died on account of accident during natural calamity, such employee is entitled to get ex-gratia payment of Rs. 10 lakh, but admittedly the petitioner was deputed on a Tube-Well and petitioner suffered brain haemorrhage. The death of the petitioner does not come within the purview of Clause - 3 and 4 of the aforesaid resolution, because the petitioner did not die in an accident or while performing active duty during natural calamity, such as flood etc., rather he was posted in a house near the Tube-Well only to supply water.

6. Having considered the facts and discussions made above, I do not find any ground that the petitioner is entitled to get ex-gratia payment of Rs. 10 lakh. Accordingly, the writ petition is dismissed being devoid of any merit.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2017
Transmission Date	NA

