

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1426 of 2016

=====

1. Most. Santi Devi Wife of Late Sachidanand Mishra resident of village -
Madhopur, Bujurg, P.S. Paro, Distt. - Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Public Health Department,
Government of Bihar, Patna
2. The Chief Engineer, Public Health Department, Government of Bihar, Patna
3. The Superintendent Engineer (Mechanical) Public Health Engineering
Department Circle - Muzaffarpur
4. The Executive Engineer (Mechanical) Public Health Division, Muzaffarpur
5. The Accountant General, State of Bihar, Patna

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-08 -2017

Delay of 11 days in filing the appeal is condoned. I.A.

No.6002 of 2016 is allowed and disposed of.

Petitioner has filed this appeal under Clause 10 of the
Letters Patent and claims benefit of pension which has been denied
to the petitioner.

In the order passed on 27.4.2016, the learned Writ
Court has found that the appellant's husband was engaged as a daily
wage employee and even though status of a work charged employee
was given to him, he was reverted back and the said reversion has



attained finality in his case.

Learned counsel for the appellant invited our attention to an order passed by the Hon'ble Supreme Court in the case of other similarly situated employees wherein identical reversion orders have been quashed and the employees have been granted the benefit of being considered as work charged employees. Reliance is placed in this regard on an order passed in Civil Appeal No.3486 of 2006 (Dinbandhu Pandey vs. State of Bihar & Ors.) decided by the Hon'ble Supreme Court on 11th of August, 2006. Learned counsel wants us to hold that once in the case of similarly situated employees the reversion order has been set aside, the reversion of the appellant's husband should be also deemed to have been set aside and treating him as a work charged employee, benefits should be granted to him.

We are afraid this cannot be done when there is a specific order of reversion in the case of petitioner's husband and in the writ petition filed by the petitioner while he was alive, the matter was remanded back to the Department and, unfortunately, during the pendency of the matter before the Department, petitioner (husband of the appellant) died.

That being so, the only course open to the appellant is to claim the benefit of pension, if entitled as a work charged employee,



by first challenging the reversion order in the light of the Supreme Court judgment in the case of Dinbandhu Pandey (supra) and thereafter claim the benefit.

With the aforesaid liberty granted to the appellant, this appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	8.8.2017
Transmission Date	N/A

