

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9701 of 2015

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1. Meera Devi Wife of Late Bishwanath Sah Resident of Village- Ahiyapur, P.S-
Sahebganj, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Rural Development Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Gramya Abhiyantran Organization, Rural Development
Department Old Secretariat, Patna
4. The Chief Engineer, Gramya Abhiyantran Organization, Rural Development
Department Old Secretariat, Patna
5. The Superintending Engineer, Gramya Abhiyantran Organization, Anchal
Purnea, District Purnea.
6. The Technical Adviser of Superintending Engineer, Gramya Abhiyantran
Organization, Purnea.
7. The Executive Engineer, Gramya Abhiyantran Organization, works Division,
Katihar.
8. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Adv.
For the State : Mr. Suraj Deo Yadav, AAG-9
Mr. Prem Ranjan Kumar, A.C. to AAG-9
For the Accountant General : Mr. Ranjan Kumar, S.C.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-08-2017

The Superintending Engineer, Rural Works Organization,
Purnea and the Executive Engineer, Rural Works Organization,
Works Division, Katihar are present before the Court.

2. It is stated by Mr. Suraj Deo Yadav, learned Additional
Advocate General No.9 appearing on behalf of the State that cost of
Rs.10,000/- has already been paid to the petitioner by way of demand
draft.

3. The contention made by Mr. Yadav has not been



disputed by the learned counsel for the petitioner.

4. The writ petition has been filed by the petitioner seeking a direction upon the respondents to fix her family pension and also to pay entire retrial benefits.

5. It has been submitted by the learned counsel for the petitioner that the husband of the petitioner was initially appointed as Chaukidar on muster roll. He was later on taken in work-charged establishment vide letter dated 05.04.1980 issued by the Superintending Engineer, Rural Works Organization, Purnea, as contained in Annexure-1 to the present writ petition, and, thereafter, he kept on working in work-charged establishment and died on 17.11.2007. He has submitted that in view of the fact that the husband of the petitioner worked for almost 27 years in the work-charged establishment, the petitioner is entitled to receive family pension.

6. On the other hand, learned counsel for the State has submitted that the employment of the petitioner in work-charged establishment was purely on provisional basis and the service of the petitioner was never taken into regular establishment. He has further contended that the husband of the petitioner had approached this Court during his life time by filing an application under Article 226 of the Constitution of India vide C.W.J.C. No. 103 of 2005 seeking a direction to the State Government to regularize his service under



regular establishment. He has submitted that this Court vide order dated 22.01.2007 had referred the claim of the petitioner to a 3-Member Committee. After the death of the husband of the petitioner, the petitioner pursued the matter before the 3-Member Committee and the Committee vide order dated 29.07.2008 rejected the claim holding that the husband of the petitioner did not fulfill the parameter fixed by the Supreme Court for absorption in regular establishment.

7. Learned counsel for the State has submitted that a Division Bench of this Court in the matter of the *State of Bihar & Ors. Vs. Bimli Devi [2016(1) PLJR 452]* had occasion to consider the issue raised in the present writ petition and in the said case the Division Bench has held that the service of the employee working under work-charged establishment is not pensionable, therefore, family members of such an employee would not be entitled for family pension.

8. I have heard learned counsel for the parties and perused the record.

9. It is not disputed by the learned counsel for the petitioner that the amount of Provident Fund and Group Insurance have already been paid to the petitioner long back. So far as the payment of family pension is concerned, since the husband of the petitioner died while working in the work-charged establishment, the petitioner would not



be entitled to the same in view of Rule 58 of the Bihar Pension Rules, 1950 (for short 'Pension Rules'), which reads as under :-

“58. The service of a Government servant does not qualify for pension unless it conforms to the following three conditions:-

First – The service must be under Government.

Second – The employment must be substantive and permanent.

Third – The service must be paid by Government.

These three conditions are fully explained in the following sub-sections.”

10. It would be manifest from the second condition of Rule 58 of the Pension Rules that unless the employment is substantive and permanent, the service of an employee would not qualify for pension. The employment in work-charged establishment is not a substantive and permanent employment.

11. In the *State of Bihar & Ors. Vs. Bimli Devi* (Supra), the question before the Division Bench was whether the family members of the deceased employee, who was appointed in the work-charged establishment and died while working as work-charged employee, would be entitled to family pension under the Pension Rules. The said question was answered by the Bench by holding that the service of the employee working under the work-charged establishment is not pensionable under the Pension Rules. Hence, the family members of



such an employee will not be entitled to family pension.

12. In view of the ratio laid down by the Division Bench of this Court in the matter of *State of Bihar & Ors. Vs. Bimli Devi* (Supra), I see no merit in the claim of the petitioner for issuing a direction on the respondents to fix the family pension of the petitioner.

13. Accordingly, the writ petition is dismissed.

14. The personal appearance of Superintending Engineer, Rural Works Organization, Purnea and the Executive Engineer, Rural Works Organization, Works Division, Katihar is dispensed with.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.08.2017
Transmission Date	

