

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20821 of 2014

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Most. Siro Devi wife of late Ram Kailash Mahato resident of village Bari Nagar,
Ashram Tola, Ward No.-8, Post Office- Guru Bazar, Police Station- Barari,
District- Katihar

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh

For the Respondent/s : Mr. Mritunjay Kumar, AC to AG 6
Mr Ranjan Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-07-2017

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

Husband of the petitioner, namely, Late Ram Kailash
Mahto, was appointed in the Work Charge Establishment on 1.7.1981.
By virtue of a direction issued in CWJC No.7359 of 2002, an exercise
for regularization was initiated by the Public Health and Engineering
Department, Government of Bihar.

It is the case of the petitioner that vide decision dated
28.11.2006 issued under the signature of the Chief Engineer
(Mechanical) a direction was issued upon the Executive Engineer,



PHED, Purnea, Araria and Katihar that the services of the husband of the petitioner along with others, whose name figured in the list, ought to be regularized after due verification.

To the misfortune of the present petitioner, the husband died on 22.11.2006 i.e. six days before Annexure- 1, dated 28.11.2006 was issued. All the persons whose name figured in the list derived the benefit and now the widow has to fight a legal battle for payment of family pension etc. which the State is resisting on the ground that before formal issuance of notification, the petitioner's husband had died.

This Court had occasion to deal with identical matter, which was the case of Asha Devi v. the State of Bihar (CWJC No.19135 of 2013). The Court vide order dated 15.07.2014 allowed the writ application keeping in mind the principle laid down in the case of *State of Bihar & others v. Sheela Devi & others, reported in 2013 (4) PLJR 552*. The said order of the single Judge has been affirmed and upheld by a Division Bench in LPA No.839 of 2015 vide order dated 09.08.2016.

Since the principle, which went into the adjudication of the case of Asha Devi, was similar, if not identical, to the present case, the writ application is allowed. A direction is issued upon the respondents that they will have to take steps for settlement of family



pension to the present petitioner by treating the husband to be in service and his services regularized in terms of Annexure- 1 of the writ application. Payment of the claim of the petitioner must be made within a period of four months from the date of production/ communication of a copy of this order.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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