

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 747 of 2015

=====

Rajkumari Kuar W/o Late Shatrudhan Prasad Singh Resident of Village and P.O. -
Bhatkal, P.S. - Taraiya, District - Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. The Building Construction Department through its Secretary, Bihar, Patna
3. The Chief Engineer, Building Construction Department North Bihar Sub
Division, Patna
4. The Superintending Engineer, Building Construction Department, Building
Circle, Muzaffarpur
5. The Executive Engineer, Building Construction Department, Building Division,
Chapra
6. The Assistant Engineer Building Construction Department, Building Sub-
Division, Chapra

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Arjun Prasad Kunwar, Advocate
For the S t a t e : Mr Indradeo Prasad, SC XXVII with
Mr Sunil Kumar Singh, AC to SC XXVII

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 02-04-2018

Heard learned counsel for the petitioner and respondent-
State.

2 Petitioner has challenged the reasoned order dated
03.06.2014 issued by the Superintending Engineer, Building
Construction Department, Building Circle, Muzaffarpur whereby and
whereunder the petitioner's claim for the notional benefits arising out
of regularization of her husband's services in light of the State
Government Resolution No 5074 dated 20.09.1990, though was



required to be considered under order dated 14.05.2012 passed in *CWJC No 10422 of 2007*, but the same has not been considered.

3 The petitioner's husband was working as *Chowkidar* in the office of the Assistant Engineer, Public Works Department, Chapra. The petitioner had approached this Court earlier by filing *CWJC No 10422 of 2007* relying upon the State Government Resolution bearing Memo No 5074 dated 20.09.1990 which provided that those, who were appointed on or before 21.10.1984 and had completed the required period, was required to be regularized. The claim of the petitioner was disposed of by this Court with the direction to the respondent-authorities to consider the case of the petitioner's husband in light of the said Resolution as also in light of the order dated 20.12.2011 passed in *CWJC No 4517 of 2007*. The impugned order dated 03.06.2014 is purportedly issued in compliance of the said order passed in favour of the petitioner on the earlier writ petition. However, perusal of the same shows that there is no consideration of the petitioner's claim in light of the State Government Resolution bearing Memo No 5074 dated 20.09.1990 and the petitioner's claim has been considered under different earlier decisions of the State Government.

4 In view of such consideration being not based on the State Government Resolution bearing Memo No 5074 dated



20.09.1990, the petitioner submits that her claim has been prejudiced.

5 Respondent-State of Bihar has filed a counter affidavit. In the counter affidavit filed by the State of Bihar, stand has been taken that the petitioner's claim was not found tenable in light of the various decisions referred to therein including the Resolution dated 22.10.1984 but the same is not manifest from the impugned "reasoned order". Prima facie, the order rejecting the petitioner's claim has not been passed in light of the above referred Resolution bearing Memo No 5074 dated 20.09.1990. The respondents cannot be permitted to assign fresh reasons in the counter affidavit.

6 In view of the aforesaid discussion, the impugned "reasoned order" is set aside since the same has not considered the petitioner's claim in light of the Resolution dated 20.09.1990 bearing Memo No 5074.

7 It is submitted by the learned counsel for the petitioner that another similarly situated person has been allowed her claim by judgment and order dated 24.05.2017 passed in *CWJC No 15360 of 2015*. Petitioner claims that her case is squarely covered by the said decision.

8 In view of the aforesaid submission, respondent No 4 is directed to take a fresh decision in the matter considering the petitioner's claim in respect of her husband's regularization under the



Resolution of the State Government bearing Memo No 5074 dated 20.09.1990 and in light of the order dated 24.05.2017. If the petitioner is found to be similarly situated as the writ petitioner of *CWJC No 15360 of 2015* and otherwise entitled to the notional benefits then the same must also be paid to the petitioner. Respondent No 4 will be obliged to take a final decision on the petitioner's claim within a period of four weeks from the date of receipt/production of a copy of this order before him and any payment, which is found due to the petitioner, shall be paid to her within four weeks thereafter.

9 Writ petition is disposed of.

(**Madhuresh Prasad, J**)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2018
Transmission Date	NA

