

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9398 of 2015

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Sunila Devi Wife of Late Anil Kumar R/o Village- Narainpur Dadhia, P.S.-
Sambhupatti, District- Samastipur Petitioner

Versus

1. The State of Bihar
2. The Chief Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer (Mechanical) PHED Government of Bihar, Patna.
4. The Executive Engineer (Mechanical) Ph. Division, Samastipur.
5. The Superintending Engineer (Mechanical) P.H. Circle, Samastipur.
6. The Assistant Engineer, (Mechanical) PHED Samastipur.

.... .. Respondents

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Appearance :

For the Petitioner : Mr. Kumar Veerendra Narayan, Advocate
For the State : Mr. Ankit Katriar, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-05-2018

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

2. The writ petition has been filed challenging the decision of the respondents not to allow the benefits of the family pension and other post retrieval benefits treating the petitioner's husband as a regular employee ignoring his past services rendered by him on Muster roll and work charged from the period 1980 to 2002. Petitioner's claim for post retrieval dues treating her husband who died in harness on 10.5.2002, to be a regular Government employee, has been rejected under order dated 21.11.2004 bearing No. 202 (Annexure 10), issued by the Public Health Engineering Department, Government of Bihar, Patna under the signature of the



Chief Engineer (Mechanical).

3. At the very outset, learned counsel for the petitioner draws attention of the Court to the judgment rendered in the case of **Saraswati Devi Vs. The State of Bihar and others** reported in **2017(3) PLJR 645**, in light of the provisions contained in Rule 59 of the Bihar Pension Rules, 1950, read with the decision of the Government contained in Memo no. Pen 1024/69/11779 F dated 12.8.1969 regarding declaration of temporary service of a Government servant, who is not confirmed as pensionable. Claim of the petitioner therein has been decided and the respondents have been directed to sanction and pay family pension and gratuity to the petitioner on account of the entire service rendered by her husband.

4. In light of the aforesaid decision, petitioner's case is also fit to be considered keeping in view his long period of service rendered under Muster roll and work charged from 1980 to 2002, in light of the law decided in the case of **Saraswati Devi Vs. State of Bihar and others**, reported in **2017(3) PLJR 645**.

5. Let respondent no.3 consider claim of the petitioner in light of the decision of the Government dated 18.8.1969 noticed herein above and dispose of claim of the petitioner by a reasoned and speaking order in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.



6. Rejection of the petitioner’s claim under order dated 21.11.2014 bearing No. 202 shall not stand in the way of consideration of petitioner’s claim in accordance with law.

7. The writ petition is disposed of.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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