

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.165 of 2018

In

Civil Writ Jurisdiction Case No.5288 of 2016

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1. The State Bank Of India through the General Manager (P R S), Zonal Office, J.C. Road, Patna.
 2. The Deputy General Manager (PRS) State Bank of India, Zonal Office, J.C. Road, Patna.
 3. The Assistant General Manager, State Bank of India, Zonal Office, J.C. Road, Patna.
 4. The Branch Manager, State Bank of India, Barauni Refinery Campus, Barauni, Begusarai.

... .. Appellant/s

Versus

Renu Devi, W/o Bishundev Kumar, Resident of New Quarter, Room No. 54, Block-Near, I.G.I.C. PMCH, P.O.- Bankipur, P.S.- Pirbahaur, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rakesh Kumar Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-09-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge on 14-11-2017 in C.W.J.C. No. 5288 of 2016 by which the learned Single Judge has allowed the said petition preferred by the original writ petitioner - widow of the deceased employee, and has held that the services of the late husband of the petitioner has to be deemed as regular/full time with effect from October, 1995 and all consequential benefits accruable are also held to be payable by the



Bank to the petitioner, the original writ petitioner Bank– employer, has preferred the present Letters Patent Appeal.

2. The facts leading to the present Letters Patent Appeal, in nut shell, are as under:-

The husband of the petitioner was initially appointed as temporary Sweeper in the Bank on 31.12.1994 and later on by notification dated 06.01.1995, The Assistant General Manager informed the late husband of the petitioner that he would be treated as subordinate staff of the Bank. Thereafter, by communication of the Assistant General Manager to the Chief Branch Manager concerned dated 02.09.1995, it was mentioned that the service of the late husband of the petitioner was being recommended for being made full time and that police verification with regard to his character be obtained. It was further reiterated in the letter that if the same had not been done, necessary arrangements should be made for the same. The late husband of the petitioner kept on working and also received appreciation letters from the higher authorities. When things did not move, the husband of the petitioner represented to his Union with regard to him being made full time employee. It appears that based on the same, the Chief Manager of the Branch wrote to the Superintendent of Police, Patna under letter dated 13.03.2006



seeking a verification report. Matter seems to have remained pending and in the meantime, the petitioner died while being in service, at the age of about 38 years on 04.11.2011.

That the original writ petitioner was denied the family pension/retirement dues by the Bank on the ground that the service of the late employee—late husband of the original petitioner was not regularized and he was not made permanent.

3. Therefore, the original writ petitioner—the widow of the deceased employee, approached this Court for the following reliefs:-

“a. For issuance of an appropriate writ/writs, direction/directions in the nature of Mandamus or writs, order or orders for directing the respondents to ensure payment of regular family pension to the petitioner admissible on account of the death of her husband on 04.11.2011, including the payment of remaining Death-cum-retiral dues along with the interest over the arrears of family pension and the amount due and calculated until the date of final payment.

b. For issuance of an appropriate Writ/Writs, direction/directions in the nature of mandamus for directing the respondents to fix the pension after ensuring the due benefits in terms of increment under Bipartite Settlement Scheme as the deceased was not granted the due increment and all its consequential benefits along with the statutory interest over the same apart from issuing appropriate directions by requiring the authorities of the Bank to consider the case of the petitioner for appropriately appointing the family members eligible on compassionate ground or in lieu thereof, to grant ex-gratia to the deceased family in terms of the decision taken by the



appropriate authority and circular to this effect having been issued for grant of such benefits.”

4. That by the impugned judgment and order, the learned Single Judge has granted the relief of regularization and/or permanency with effect from October, 1995, with all consequential benefits accruable, the relief which was not even prayed in the main petition.

5. Feeling aggrieved and dissatisfied with the impugned judgment and order, the original respondent Bank–employer has preferred the present Letters Patent Appeal.

6. Having heard learned counsel appearing for the respective parties and considering the fact that the deceased employee was serving in the bank since 1994, initially as a temporary sweeper and thereafter by the notification dated 06.04.1995, the Assistant General Manager informed the late husband of the petitioner that he would be treated as sub-ordinate staff of the bank and thereafter even the Chief Manager of the Branch wrote to the Superintendent of Police, Patna under letter dated 13.03.2006 seeking a verification report which remained pending and before any formal order in favour of the late employee as full time employee could be passed, at the age of about 38 years, the deceased employee died on 04.11.2011,



7. Having heard the learned Counsels appearing on behalf of the respective parties, we are of the opinion that the order granting family pension to the original writ petitioner on the death of the deceased employee is not required to be interfered with. For all practical purposes, the deceased employee was made permanent/regular employee. However, due to non-sending of the verification report by the concerned Police Department, the formalities of issuing an order making the service of the late husband of the petitioner permanent/full time was not issued by the Bank authorities.

8. However, learned counsel appearing on behalf of the appellant Bank is justified in making the grievance that the relief granted by the learned Single Judge and holding that the services of the late husband of the writ petitioner has to be deemed to be regular/full time with effect from October, 1995 with all consequential benefits accruable, could not have been passed by the learned Single Judge, as the same was not even prayed by the writ petitioner. Therefore, the aforesaid relief granted by the learned Single Judge is beyond the scope and ambit of C.W.J.C. No. 5288 of 2016 and beyond the relief prayed in the petition. To the aforesaid extent, the impugned judgment and order passed by the learned Single Judge is required to be interfered.



9. In view of the above and for the reasons stated above, the present appeal succeeds in part. The impugned judgment and order passed by the learned Single Judge in granting all consequential benefits with effect from October, 1995 on treating the late husband of the petitioner as regular/full time, is hereby quashed and set aside. However, the original writ petitioner shall be entitled to the family pension on the death of the deceased employee from the date of the death of the deceased employee – December, 2011 onwards. If the same is not paid, the same shall be paid to the original writ petitioner within a period of 8 weeks from today, subject to completion of legal and proper formalities required.

10. The present appeal is allowed to the aforesaid extent only. No costs.

11. All the interlocutory applications stand disposed of.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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