

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1515 of 2017

In
Civil Writ Jurisdiction Case No.10638 of 2005

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Asturni Devi W/o Late Ramadhar Ram resident of village - Bhatauli, P.S. &
Via - Nawanagar, Distt - Bhojpur.

... .. Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. Chief Engineer, Department of Irrigation, Dehri-on-Sone, Government of Bihar, Patna.
3. The Superintending Engineer, Flood Protection Circle, Buxar.
4. The Executive Engineer, Son Canal Division, Buxar.
5. Assistant Engineer, Irrigation Sub-Division, Sikraul, Buxar.

... .. Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Dular Sah, Advocate
For the Respondent/s : Mr. Anjani Kumar - AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-07-2018

Defect is said to have been removed.

Seeking exception to an order passed by the Writ Court
in CWJC No.10638 of 2005, this appeal has been filed under
Clause 10 of the Letters Patent.

It is the grievance of the petitioner that she is being
denied the benefit of family pension and the learned Writ Court
has rejected it on the ground that before his death, petitioner's



husband was not regularized and therefore, family pension cannot be granted to the petitioner.

Having heard learned counsel for the parties, we find that the petitioner's husband joined the service on 19.07.1951 and he died in harness on 07.11.1972. In the meanwhile in the year 1971, 72 persons working with the petitioner's husband were regularized and it is the grievance of the petitioner that even though her husband was entitled for regularization in the year 1971, but his case not was not considered and in the meanwhile he died and after his death the petitioner started representing claiming family pension and when the same was not done, the writ petition for the first time was filed in the year 2005.

The petitioner is claiming family pension and the same can be granted to the petitioner only if the case of her husband for regularization was taken up for consideration and an order was passed for regularization and then the consequential order for family pension can be passed. In our considered view, now with regard to a person, who could have claimed regularization in the year 1972 when he did not agitate the matter, after his death, the question of regularization of employee cannot be taken up.



Keeping in view the nature of all circumstances, we see no error in the order passed by the learned Writ Court warranting reconsideration that also now after such a long period of time.

Accordingly, finding no ground, the appeal is dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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