

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15384 of 2011

1. Chandrawati Devi, Wife of Late Satrugan Prasad
2. Ravi Kumar Son of Late Satrugan Prasad
3. Raju Kumar Son of Late Satrugan Prasad
4. Rani Kumari, Daughter of Late Satrugan Prasad
5. Renu Kumar, Daughter of Late Satrugan Prasad All resident of village- Mahrajganj, P.S.- Mahrajganj, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Minor Water Resources Department, Bihar, Patna
2. The Project Coordinator, Tubewell Project, Minor Water Resources Department, Bihar Visveshwaraiya Bhawan, Bailey Road, Patna
3. Chief Engineer (North), Tube Well, Minor Water Resources Department, Muzaffarpur
4. Superintending Engineer, Minor Water Resources Department, Circle Muzaffarpur, Muzaffarpur
5. Executive Engineer, Tubewell Division, Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma
For the Respondent/s : Mr.Rajeev Kr. Singh Gp15

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 02-09-2019

Heard learned counsel for the petitioners and the respondent State.

2 The instant writ petition has been filed for quashing the order dated 07.02.2011 issued by the Executive Engineer (Tubewell Division), Chapra as also the Office Order dated 26.07.2011 issued by the same Authority.



3 Petitioner No 1's husband, by the said orders, has been reverted to the post of Helper from the post of Assistant Electrician for the second time. After his earlier reversion, petitioner No 1's husband had again somehow managed to take the pay for the post of Assistant Electrician. Authorities have, thus, directed for stopping of petitioner No 1's husband's salary with effect from July, 2011.

4 It is the petitioner No 1's case that her husband had been granted the promotion without any misrepresentation and, as such, even if the reversion was due and in accordance with law, then, at best, the same would entail the fixing of emoluments on account of reversion and could not justify any recovery for the period prior thereto when he worked as Assistant Electrician. Reliance is placed on the case of State of Punjab & Others -Versus- Rafiq Masih (White Washer) & Others reported in (2015) 4 Supreme Court Cases 334.

5 In response to a query whether recovery is still pending or whether the entire amounts have been recovered, response of the learned counsel for the petitioners is that the widow, sons and daughters have been substituted in the instant proceedings and they are not aware of the said facts.



6 In view of the aforesaid development, the Court is called upon to mould the relief in favour of the petitioners since petitioner No 1's husband was a Class IV employee and on account of the demise during pendency of the instant proceedings, recoveries would be onerous and contrary to the law laid down by the Apex Court in the case of Rafiq Masih (supra).

7 If any recoveries are pending from the petitioner No 1's husband's dues, this Court would direct that the respondents would be precluded from making any recoveries on account of excess pay for the post of Assistant Electrician, since he was granted pay for the said post. Whether it was due, or managed by petitioner No 1's husband is an issue which now cannot be examined/enquired on account of his death.

8 This Court would further observe that the respondents should examine the service details of the petitioner No 1's husband and work out the entitlement of the petitioner No 1's husband (now pensionary entitlement) having regard to demise of the petitioner No 1's husband.

9 Respondent No 5 should examine the claim and ensure fixation of due and admissible benefits including pensionary benefits to the petitioners without effecting any further recoveries on account of the order of reversion dated 07.02.2011.



The order dated 26.07.2011, which also has been passed without giving any opportunity to the petitioner No 1's husband while he was alive and in service, should also not come in the way of ascertaining the due and admissible benefit of the petitioners.

10 Let the entire exercise be completed by respondent No 5 within a period of three months from the date of receipt/production of a copy of this order.

11 It is made clear that due and admissible benefit should also be paid to the petitioners within the same period.

12 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10.09.2019
Transmission Date	NA

