

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.302 of 2017

Most. Dharamshila Devi Wife of late Rajdeo Mistry Resident of Village -
Ekbalganj, Nisharpura, P.O. - Nisharpura, P.S. - Ranitalab, District – Patna.
... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Engineer-in-Chief-Cum-Special Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Chief Engineer Mechanical, Public Health Engineering Department, Bihar, Patna.
4. The Superintending Engineer Public Health Mechanical Circle, Patna.
5. The Executive Engineer, Public Health Mechanical Division, Patna.
6. The Junior Mechanical Engineer, Public Health Mechanical Section, Now Capital, Patna.
7. The Accountant General, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bhola Kumar, Advocate Mr. Alok Ranjan, Advocate
For the State	:	Mr. AAG-5
For the A.G.	:	MR. Kumar Priya Ranjan (SC) MR. Niraj Kumar

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 17-04-2019 Heard learned counsel for the petitioner, learned AC

to the AAG-5 for the State of Bihar and learned counsel for the

Accountant General.

The petitioner has filed the instant writ application for
directing the respondents to pay the outstanding post- retiral
dues of her husband and family pension along with interest.

As per the case of the petitioner, her husband was
appointed as Pump Khalasi on 01.02.1982 in Public Health
Engineering Department, Government of Bihar on daily wages
and he died on 27.04.2006.

Further case of the petitioner is that on having
completed five years of service, although, there is a direction to



be appointed as Work -Charge Employee, though persons junior to the husband of the petitioner were appointed as Work-Charge Employee but the same was not done in case of the husband of the petitioner.

A counter affidavit has been filed on behalf the respondent Nos. 1 to 5, stating therein that the husband of the petitioner was engaged on daily wages w.e.f. 01.02. 1982 but he was not adjusted or appointed in Work Charge Establishment. It is stated that he worked on daily wages from 01.02. 1982 till his death on 27.04.2006. As he was not a Government servant the benefit of pension, was not admissible to the petitioner's husband.

It may be stated here that, although, a copy of counter affidavit of the respondent Nos. 1 to 5 was served on the learned counsel for the petitioner on 20.05.2017, however, no re-joinder or reply has been filed on behalf of the petitioner contradicting the facts stated in counter affidavit.

Having heard the learned counsels for the parties, the fact not dispute is that the petitioner continued to function in daily wages and was never brought into the Work Charge Establishment. As such, the prayer made in the writ application for directing the respondents to pay family pension and other



post-retiral dues to the petitioner would not be tenable. As such the prayer made is rejected and the writ application is dismissed.

At this point, it is submitted on behalf of the learned counsel for the petitioner and even from the counter affidavit, it is an admitted fact that the husband of the petitioner worked on daily wage basis from 01.02. 1982 till his death on 27.04.2006, while still in service. It is further submitted that as per the circular, issued by the State Government, those employees, who have completed five years of service as daily wages workers, have been directed to be appointed, as Work Charge Employees. In spite of the husband of the petitioner, coming within the purview, still the same benefit has not been granted to him and he seeks liberty to file a representation before the respondent- authority on this point.

The writ application is disposed of with a liberty to the petitioner to file a representation before the respondent No. 3 with a copy of this order within a period of six weeks, which shall be disposed of by the said respondent within a period of three months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

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