

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2893 of 2017

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Mosmat Mani Devi, W/o Late Kedar Mishra Resident of Village- Chainpur,
P.O.- Chainpur, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Public Health Engineering Department, Bihar, Patna.
3. The Engineer in-Chief-Cum Special Secretary, PHED, Bihar, Patna.
4. The Chief Engineer, Department of PHED (Mechanical), Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Department, Saharsa Circle, District- Saharsa
6. The Executive Engineer, Public Health Division Saharsa.
7. The Assistant Engineer, Public Health Engineering Dept. Patna.
8. The Accountant General (A & E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amresh Kumar, Advocate
For the State	:	Mr. Vishwambhar Prasad, AC to AAG-5
For the AG	:	Mr. Uday Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 02-05-2019

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel appearing on behalf of the Accountant General, Bihar, Patna.

2. Husband of the petitioner Late Kedar Mishra worked as daily wager from 22.12.1980 under the Public Health Engineering Department, Bihar, Patna. With effect from 30.01.1988 the husband of the petitioner was taken in the work charge establishment. Vide letter No. 2322 dated 13.04.2002 the petitioner was reverted back from the work charge establishment



to a daily wager, against which he filed a representation before the Commissioner cum Secretary, PHED, which was rejected. However, before any other steps could be taken by the husband of the petitioner he died in harness on 04.12.2004.

3. Petitioner, the widow of the late employee, seeks payment of pension gratuity, provident fund, leave encashment and other benefits. Learned counsel for the petitioner relied on the judgment dated 21.04.2015 passed by the Division Bench wherein a similar matter has been disposed of on 21.04.2015 being C.W.J.C. No. 21724 of 2012 as contained in Annexure-15 wherein reference has been made to a decision of the Apex Court passed in Civil Appeal No. 3486 of 2006 dated 11th August, 2006 in which it has been observed that the reversion from work charge establishment to a daily wager would be deemed to be cancelled as the employee has continued in work charge establishment for more than five years and would be deemed to be in the work charge employment from the date of his appointment as a work charge employee. He further relied on a recent Full Bench judgment of this Court in the case of ***Mobina Khatoon Vs. The State of Bihar & Ors.*** since reported in ***2019(1) PLJR 1015*** that a work charge employee, who has completed 10 years or more of continuous service against one post in the work charge establishment, will be



paid pension and his family, in the case of death of such work charge employee, would be paid family pension.

4. In view of the order passed by the Division Bench this writ application is allowed with a direction to the Respondent No. 6, the Executive Engineer, Public Health Engineering Division, Saharsa to sanction and pay the family pension and gratuity to the petitioner with effect from 01.03.2017 within a period of four months from the date of receipt/ production of a copy of this order. However, arrears is denied to the petitioner as the writ application has been filed at a belated stage.

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2019
Transmission Date	NA

