

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.747 of 2018
In
Civil Writ Jurisdiction Case No.17309 of 2015

1. The State of Bihar
2. The Chief Engineer Mechanical, PHED, Bihar, Patna, Bisheshwaraiya Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, Public Health Circle, Ara, District- Ara.
4. The Executive Engineer, P.H. Division, Bhabua, District- Kaimur at Bhabhua.

... .. Appellant/s

Versus

1. Most. Umarawati Kunwar, Widow of Late Uma Shankar Singh, Resident of Village- Sorathi, P.S.- Binara, District- Rohtas at Sasaram.
2. The Accountant General, Bihar, Veer Chand Patel Marg, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S. Raza Ahmad, Sr. Advocate, AAG-5 Mr. Vishwambhar Prasad, AC to AAG-5 Mr. Alok Ranjan, Advocate
For the Respondent/s	:	Mr.Lalan Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

5 19-09-2019 Heard Mr. S. Raza Ahmad, learned A.A.G.-5 for

the appellant/State of Bihar and Mr. Lalan Kumar Singh,

learned counsel for the respondent/widow of the employee.

This appellant is aggrieved by the direction given to

the State authorities for revising the pay-scale of the

husband of the respondent in terms of the 6th pay-scale

revision recommendation and forwarding the same to the



office of the Accountant General so that the corresponding revision of pension, gratuity etc. can be made and authorised to which she was entitled. Another direction was issued by the learned Single Judge to the appellant and its functionaries for undertaking an exercise for finding out whether the late employee was entitled to the benefit of 1st and 2nd A.C.P. and if at all such entitlement was ascertained, the benefit be given and the pension be revised accordingly.

It has been submitted on behalf of the respondent that the benefits of 1st and 2nd A.C.P. has already been given to the deceased employee and there has been corresponding change in the family pension / pension of the deceased employee.

This Court in the case of ***Amerika Devi & Ors. Versus State of Bihar & Ors. and other analogous cases, (lead case being C.W.J.C. No. 10063 of 2012)*** by a Bench of three Judges has held that for the purposes of pension, such period would be counted from work-charged period served by an employee. With respect to other benefits, the entire period rendered by a work-charged employee who has been regularized in service can be taken into account.



In that view of the matter, though the direction which was issued by the learned Single Judge on 06.07.2017 would not be incorrect today but on the day of the order, there was still a debate whether such period of work-charged service could be counted for the purposes of revision of pay or calculation and fixation of pension.

In any view of the matter, since the order was passed without taking into account the objection of the respondent / State therein, we only deem it appropriate to modify the order dated 06.07.2017 (impugned order) to the extent that the appellant and its functionaries shall undertake an exercise of finding out whether the widow of the deceased employee would be entitled to the revised pay-scale and if so, necessary / corresponding changes shall be made in the pension / family pension of the respondent. Such exercise ought to be completed without any delay, within a period of three months from the date of production/communication of a copy of this order to the concerned functionaries.

Needless to state that any order which will be



passed would be in terms of the law laid down by the Full Bench Judgement referred to above and consequential benefits if admissible shall be paid forthwith to the respondent.

The appeal stands disposed off accordingly.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

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