

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13881 of 2011

1. Madhuri Devi, W/O Late Shankar Manjhi
2. Manoranjan Kr. Nirala, s/o Late Shanker Manjhi
3. Vishwa Ranjan Kr. Nirala, s/o Late Shanker Manjhi
4. Prem Ranjan Kr. Nirala, s/o Late Shanker Manjhi
All are residents of Bhagwan Bazar, PS- Bhagwan Bazar, Dist- Chapra

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Patna
2. The Principal Secretary, Health New Secretariat, Patna
3. The Secretary Health Department, New Secretariat Patna
4. The President Bihar State Homeopathic Board, Patna
5. The District Maistrate Saran, Chapra
6. The District Indigenous Officer Saran, Distt.- Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Chandra Kant
For the Respondent/s : Mr.Parth Sharthi Sc10

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 23-10-2019

1. The learned counsel for the parties are in agreement that the present case is squarely covered by a judgment reported in **2016 (4) PLJR 554 (State of Bihar v. Dr. Radha Krishan Choudhary).**

2. In this regard, it would be apt to reproduce paragraph no. 16 of the said judgment hereinbelow :-

16. Thus to that extent we set aside the judgment of the learned Single Judge. We would, therefore, dismiss the appeals of the State and allow the appeals of the postgraduate diploma holder doctors and the M.B.B.S. doctors of the Bihar Health Service. The result would be that with effect



from 28.1.2011 up to 22.12.2011 any doctor of Bihar Health Service who has been made to superannuate upon attaining the age of 62 years would be held to have been wrongly superannuated. They would be entitled to the same benefit that was conferred upon the postgraduate doctors of the Institute. As noted in the very beginning, these writ petitions/ appeals were kept pending and even if extended service is ordered, the beneficiaries thereof would have since retired. In view of the interim orders that were passed in the writ proceedings as well as in these appellate proceedings as also in the facts and circumstances of these cases, the only relief to which the beneficiary doctors would now be entitled to would be additional remuneration over and above, their retiral dues which they would get being the difference of pay for the period of three years of extended service i.e. the difference of pay as between pensionary benefits and the pay which they would have been entitled to get, they being in service for three more years. They were ready and willing to work, they had been asserting their rights to carry on working but wrongly they have been deprived of opportunity to work. State would thus be liable to pay.

3. The learned counsel for the respondents submits that all such similarly situated persons have already been extended benefit for the period for which they had stood retired before the actual date of superannuation i.e. 65 years.

4. The learned counsel for the petitioner submits that the deceased-employee, as a consequence of the aforesaid judgment and the notification of the State Government dated 22.12.2011, is required to be treated in service for the period 01.09.2011 to



10.05.2012 (date of death) and the resultant benefit for the said period is required to be given to the deceased employee and consequently to the petitioner no. 1- widow who happens to be the wife of the deceased employee.

5. Since there is no dispute in between the parties with regard to the aforesaid entitlement of the deceased employee i.e. the husband of the petitioner no. 1 herein, the respondent State is directed to pay the entire consequential benefits to the petitioner no. 1 herein, arising out of extension of the service of the deceased employee by a period of 03 years i.e. as a consequence of extension of the date of superannuation from 62 years to 65 years, which in the present case would be limited to 10.05.2012, i.e. the date of death of the husband of the petitioner no. 1, within a period of four weeks from the date of receipt/ production of a copy of this order.

6. The present writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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