

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.208 of 2019

In
Letters Patent Appeal No.1566 of 2015

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Bimli Devi W/o Late Sushil Paswan, Resident of Village Nagma, P.O. -
Damodarpur Baldha, Block and P.S. - Nagarnausa, District- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar
2. The Secretary, Public Works Department, Building Construction
Department, Bishwashraiya Bhawan, Bihar, Patna.
3. The Chief Engineer, Dakshni Upbhag, Building Construction Department,
Bihar, Patna.
4. The Superintending Engineer, Public Works Department, Building Division,
Gaya.
5. That Accountant General, Bihar, Patna.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Anil Kumar Sinha

For the Opposite Party/s : Mr.Raj Ballabh Prasad Yadav (Aag11)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

2 21-08-2019 This case has been listed under the heading “For
Orders on Office Notes” as the registry has reported that the
application filed by the petitioner seems to be not maintainable.

2. Heard learned counsel for the petitioner.

3. He has submitted that in view of the order passed
by the Full Bench of this Court in the case of ***Mobina Khatoon***
Vs. The State of Bihar & Ors., since reported in ***2019 (1) PLJR***
1015, the instant application has been filed for review of the



order dated 24.11.2015 passed by the Division Bench in LPA No. 1566 of 2015 whereby the Division Bench while setting aside the order dated 27.08.2014 passed by the learned single Judge in CWJC No. 5159 of 2013 held that service of employee working under the work charged establishment is not pensionable under the Bihar Pension Rules, 1950. Hence, family members of such an employee will not be entitled to family pension.

4. He has pleaded that in *Mobina Khatoon* (Supra), on 04.02.2019, a Full Bench of this Court has taken a contrary view. It has held that a work charged employee who has completed ten or more years of continuous service against one post in the work charged establishment will be paid pension and his family, in case of death of such work charged employee, would be paid the family pension.

5. He has further contended that in view of the Full Bench judgment, the order under review dated 24.11.2015 requires reconsideration.

6. It would be pertinent to note that earlier also the petitioner had filed an application for review of the aforesaid order dated 24.11.2015 in LPA No. 1566 of 2015 vide Civil Review No. 361 of 2016, which was dismissed by the Division



Bench vide order dated 18.01.2017.

7. In our considered opinion, the second application filed by the petitioner for review of the order dated 24.11.2015 is totally misconceived. It is well settled position in law that an erroneous decision cannot be corrected in the guise of exercise of power of review. Similarly, a decision cannot be reviewed on the basis of subsequent judgment of a co-ordinate or larger Bench or of a superior Court. Hence, the subsequent decision by a Full Bench in *Mobina Khatoon* (Supra) cannot be made a ground for seeking review of the order passed in LPA No. 1566 of 2015.

8. Registry has rightly raised objection regarding maintainability of the application.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

(Chakradhari Sharan Singh, J)

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