

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1586 of 2016

In
Civil Writ Jurisdiction Case No.11708 of 2008

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1. The State of Bihar.
 2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
 3. The Chief Engineer, Minor Irrigation Department, Bihar, Patna
 4. The Executive Engineer, Minor Irrigation Division, Sasaram
 5. The District Provident Fund Officer, Rohtas at Sasaram.
 6. The Treasury Officer, Rohtas at Sasaram.
 7. The Accountant General, Bihar, Patna.

... .. Appellants/Respondents

Versus

Sushila Devi W/o Late Mahendra Singh resident of Village- Dharupur, P.O.
Dharpur, P.S.- Bikramganj, Distt.-Rohtas

... .. Respondent/Petitioner

Appearance :

For the Appellant/s : Mr. Anil Kr. Singh, GP26
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 21-10-2019

Heard learned counsel for the appellant.

The facts in this case are not in dispute that the husband of the respondent was initially appointed as a lower grade Clerk on 28.5.1979 on stop-gap arrangement, thereafter, he was appointed as Tube-well Operator under the Work-Charge-Establishment, posted in Purnea Division in the fixed pay-scale with effect from 1.12.1981, continued on that capacity, he was transferred to various places and was also granted revised pay-scale from time to



time. On 19.1.1985, he was transferred to the office of Executive Engineer, Minor Irrigation Division, Sasaram in the capacity of Work Sarkar and his service-book was opened on 30.1.1986 but, he died on 16.10.2007.

In the present appeal, the State is challenging the view of the learned Single Judge because he has worked only for five years as a regular employee, as 10 years continuous services is mandatorily required in the regular establishment on permanent basis, he would not be entitled to the benefit of pension or family pension but, the fact remains that he has worked for 22 years and the State, in the counter affidavit filed by the respondent nos. 3 & 4 in writ application, has stated that he has worked for 22 years and, at the time of death, following payments have been made:-

- “i) G.I. - Rs. 30.000=00 (on 04.07.08)*
- ii) G.P.F. - Rs. 64.257=00 (on 31.3.2009)*
- iii) Arrear Pay – Feb. 2007 Rs. 10,391.00 (on 03.9.09).*
- iv) Increment arrear from 01.01.2007 to 15.10.07 – 1715 (on 03.09.2009)*
- v) Earn leave pay 01.01.2007 to 31.01.2007 (Rs. 10.391.00) on 03.09.2009.*
- vi) Payment of unutilized leave (Rs. 75,565.00 on 03.09.2009)*
- vii) G.P.F. (1988-89 to 98-99) – 94269.00 (on 18.9.09)*
- viii) Arrear pay of Dec. 06- Rs. 9950.00 (on 31.3.09)*
- ix) Amount of G.P.F. amounting to Rs. 42,129.00”*



But, the question is entitlement of family pension. Admittedly, the husband of the petitioner has worked for 22 years and five years in regular Establishment. In view of the judgment passed in the case of ***Mobina Khatoon Vs. The State of Bihar & Ors.*** reported in **2019 (1) PLJR 1015**, this Court has considered the identical issue with regard to entitlement of pension and family pension wherein in paragraph no.70, the view has been summarized in the following manner:-

“70. For the aforesaid reasons, we deem it necessary and lawful to hold and declare the following that Patna High Court LPA No.166 of 2018 dt.04-02-2019 till the time, appropriate rules in this regard is framed by the Government:-

(i) That a work-charged employee who has completed ten (10) 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.

(ii) The work-charged employees who have received regular scale of pay for ten (10) or more years on their retirement and after their death, their heirs and dependants would be entitled to claim death-cum-retiral benefits.

(iii) However, the dependants of a work-charged employee would not be entitled to claim appointment on compassionate ground in the absence of any scheme framed by the Government for such work-charged establishment.”



In view of the above, this Court does not find any merit
in the present appeal and the same is dismissed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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