

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.166 of 2018

In
Civil Writ Jurisdiction Case No.6517 of 2011

=====

Mobina Khatoon Wife of Late Abdul Jabbar, Resident of Village- Chilmil,
P.S.- Muffasil Begusarai, District- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Engineer-in-Chief, Public Health Engineering Department,
Vishweshriya Bhawan, Patna.
3. The Chief Engineer, Public Health Engineering Department, Vishweshriya
Bhawan, Patna.
4. The Superintending Engineer, Public Health Engineering Department,
Darbhanga.
5. The Executive Engineer, P.H. Division, Begusarai.

... .. Respondent/s

=====

with
Letters Patent Appeal No. 289 of 2018
In
Civil Writ Jurisdiction Case No.6349 of 2016

=====

1. The State Of Bihar
2. The Principal Secretary, Public Health Engineering Department,
Government of Bihar, Patna.
3. The Engineer in Chief Cum Special Secretary, Public Health Engineering
Department, Government of Bihar
4. The Chief Engineer, Department of Public Health Engineering Mechanical
Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Circle,
Muzaffarpur.
6. The Executive Engineer, Public Health Division, Sitamarhi.
7. The Sub Divisional Officer Cum Assistant Engineer, Public Health
Engineering Sub Division, Sitamarhi
8. The Sub Divisional Officer Cum Assistant Engineer, Public Health
Engineering Sub Division, Sheohar.
9. The District Magistrate, Sitamarhi.
10. The District Accounts Officer, Sitamarhi.
11. The Treasury Officer, Sitamarhi.

... .. Appellant/s



Versus

1. Soniya Devi and Anr Wife of Late Yugal Mahto, Resident of Village-Rampur Parari East, P.O.-Banchauri, P.S. and District-Siramarhi.
2. The Accountant General, A and E, Bihar, Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 166 of 2018)

For the Appellant/s : Mr. Gajendra Kumar Jha

Mr.Sushil Kumar Jha

For the Respondent/s : Mr.S.Raza Ahmad -AAG-5

Mr. Vishambhar Prasad, AC to AAG-5

(In Letters Patent Appeal No. 289 of 2018)

For the Appellant/s : Mr.Suresh Kumar AC to GP 1

For the Respondent/s : Mr.Purushottam Kumar Jha

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 16-01-2020

LPA No. 166 of 2018

The appellant is aggrieved by the impugned order dated 31.08.2017 passed by learned Single Judge in CWJC No. 6517 of 2011. The grievance of the appellant is that learned Single Judge failed to pass any order on the point of grant of family pension to the appellant.

Learned counsel appearing for the appellant submits that during pendency of above-stated writ petition, the appellant filed supplementary affidavit mentioning therein that even if the work charge employee has not been regularized then also if he has completed ten years or more service, he is entitled



for pension and after his death his family members are entitled to get family pension. Learned counsel for the appellant submits that learned Single Judge overlooked the aforesaid supplementary affidavit and passed the impugned order.

Learned AAG-5 appearing for the State controverts the above-stated submissions arguing that before the learned Single Judge, the appellant admitted that only two issues were involved in CWJC No. 6517 of 2011, first, appointment on compassionate ground and, second, difference of salary and, taking note of the aforesaid fact, the learned Single Judge passed the impugned judgment. Learned AAG-5 further submits that no doubt the Full Bench of this court vide order dated 04.02.2019 passed in the present appeal along with other analogous appeals, decided the issue of pension holding as follows:-

(i) the work charge employee who has completed ten or more years of continuous service against one post in the work charge establishment, will be paid pension and his family in case of death of such work charge employee, would be paid the family pension.

(ii) the work charge employees who have received regular scale of pay for ten or more years, on their retirement



and after their death their heirs and dependents would be entitled to claim death-cum-retiral benefits.

(iii) However, the dependents of a work charge employee would not be entitled to claim appointment on compassionate ground in the absence of any scheme framed by the government for such work charge establishment.

In view of the aforesaid decision of the Full Bench, the issue of grant of pension to the employee of work charge establishment is no longer res integra.

Now, the only question is to be decided is whether the subsequent event can be taken into notice or not. It is well settled principle of law that the subsequent event can be taken into notice at any stage. Moreover, in the present appeal, the appellant seeks help of law laid down by the Full Bench of this court and the aforesaid event is not a factual event rather it comes under the purview of legal event and, therefore, in view of the aforesaid fact, we have no option except to modify the impugned order dated 31.08.2017 and, accordingly, this appeal stands disposed of in view of terms of Full Bench decision rendered in the above-stated case.

LPA No. 289 of 2018

LPA No. 289 of 2018 has been preferred against



judgment dated 24.11.2017 passed in CWJC No. 6349 of 2016 by which and whereunder learned Single Judge held the service of husband of respondent no. 1 as pensionable. Since the recent LPA is also covered with the decision rendered by Full Court in Mobina Khatoon and other analogous cases vide judgment dated 04.02.2019, we do not find any ground to interfere into the impugned judgment dated 24.11.2017 passed in CWJC No. 6349 of 2016. Accordingly, this Letters Patent Appeal, too, disposed of in the terms of decision rendered by Full Bench of this court in the above-stated case.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2020
Transmission Date	

