

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18764 of 2019

Most. Dharamshila Devi, aged about 49 years/Female, wife of late Rajdeo Mistry, Resident of Village- Eqbalganj, Nisharpura, P.S.- Nisharpura, P.S.- Ranitalab, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Bihar Patna.
2. The Engineer-in-Chief-Cum-Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna.
4. The Superintending Engineer, Public Health Mechanical Circle, Patna.
5. The Executive Engineer, Public Health Mechanical Division, Patna East, Patna.
6. The Junior Mechanical Engineer, Public Health Mechanical Section, New Capital, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. U. P. Singh, AC to SC 4

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-01-2020

Heard learned counsel for the petitioner and learned
AC to SC 4 for the State.

2. The petitioner has moved the Court for the
following reliefs:

“(A) For issuance of a writ in the nature of certiorari quashing the order dated 26.06.2019, (Annexure-8) passed by the Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna (Respondent no.3) Whereby claim of the petitioner has been rejected regarding



declaration of her husband as a work-charge employee when the Junior of her husband was given benefit.

- (B) *For directing the state Respondents to grant family pension and other post retiral dues after death of her husband in terms of Hon'ble Full Bench Judgement reported in 2019 (1) PLJR 1015.*
- (C) *For passing any other order/s command/s or appropriate writs/s which your Lordships deem fit and proper in the facts and circumstances of the instant case."*

3. The petitioner has moved the Court against the rejection of her representation claiming payment of family pension to her treating her husband to be a work charge employee.

4. From the pleadings, it appears that the petitioner had approached the Court earlier also claiming family pension in CWJC No.302 of 2017, which was disposed off by order dated 17.04.2019 with liberty to the petitioner to file a representation before the respondent-authority on the ground that her husband was covered by the State Government's circular by which employees, who had completed five years of service as daily wage workers, were directed to be appointed as work charge employee. The Court would take note of the fact that earlier the Court in CWJC No.302 of 2017 had noticed the contention of learned counsel for the parties that the husband of the petitioner had continued to function in daily wages and was



never brought into work charge establishment and had held that in such background, the prayer for directing the respondents to pay family pension and other post retiral benefits was not tenable and further, such prayer was rejected and the writ application was dismissed on such point. The fact that liberty was given to represent before the authorities, thus, was only a window given to the petitioner to approach the authority and then it was for the authority to pass appropriate order. However, the Court after considering such plea and also noticing the policy of the State Government had still proceeded to dismiss the writ petition with regard to treating the service of the husband of the petitioner to be in the work charge establishment and then to pay family pension to her. Thus, in the considered opinion of the Court, such prayer was limited only to moving before the authorities i.e., on the departmental side, but the same would not be a cause of action to generate further litigation before this Court by again coming for the same very relief based on the same grounds. If, at all, the petitioner wanted to maintain her right to move on the judicial side, she was required to have moved either for review or in appeal against the order by which the writ petition was rejected on the basis of her claim that after five years the husband of the petitioner was to be brought into



work charge establishment and, accordingly, she was required to be paid family pension. This not having been done and further, no liberty granted to the petitioner to thereafter to move before the Court, would not entitle the petitioner to prefer the writ application, i.e., for the second time on the same ground for the same cause of action.

5. In view thereof, the writ application is held to be not maintainable and accordingly, dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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