

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5648 of 2017

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Bebi Rai wife of Late Rajan Bahadur, resident of Mohalla- Machhua Toli,
P.S.- Bankipur, P.S.- Kadam Kuna, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
2. The Joint Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Chief Engineer (Civil), Govt. of Bihar, Patna.
4. The Superintendent Engineer (Head Quarter), Public Health Engineering Department, Govt. of Bihar, Patna
5. The Executive Engineer, Public Health Engineering Department, Govt. of Bihar, Patna.
6. The Executive Engineer, the Bihar State Water Council, Work Division, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Prakash, Adv.
For the Respondent/s : Mr.Manoj Kumar, A.C. to G.P.4

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 16-06-2020 Heard learned counsel for the petitioner and learned
counsel for the respondent, through video conferencing.

The petitioner has filed the instant application praying
for directing the respondent-authorities to pay the death-cum-
retiral benefits as well as to start the pension. A further prayer
has been made for directing the respondent authorities to issue
the appointment letter on the basis of compassionate ground.

It is submitted by learned counsel for the petitioner
that the husband of the petitioner namely, Late Rajan Bahadur



who was working on the post of *Khalashi* in the Bihar Rajya Jal Parishad, died in service period on 12.2.2014. Not having been paid the death-cum-post retiral dues nor having received appointment on compassionate ground, the widow-petitioner has filed the instant writ application.

A counter affidavit has been filed on behalf of the respondent no.6 i.e the Executive Engineer, Bihar State Water Council and another counter affidavit has been filed on behalf of the respondent nos.1 to 5 i.e the State- respondents. It has been stated in the counter affidavit filed on behalf of the respondent no.6 that the husband of the petitioner was appointed on 31.7.1990 on compassionate ground. He had applied for regularization on 30.12.2010. It is further stated that the petitioner has been paid the amount under the head of G.P.F. and G.I.S. Further the husband of the petitioner was not entitled for pension. So far as the compassionate appointment is concerned, there is a separate committee to consider the same. Further reliance is placed on a Division Bench judgment of this Court in the case of **State of Bihar and others versus Bimli Devi** reported in **2016(1) PLJR452** wherein it was held that family of work charge employee are not entitled to family pension.

It has been submitted by learned counsel for the



petitioner that so far as death-cum- retiral dues is concerned, the same has been received by the petitioner. With respect to appointment on compassionate ground, it has been submitted that from the counter affidavit itself it would transpire that the petitioner's husband had applied for regularization on 30.12.2010. No steps having been taken by the respondents, the petitioner is not at fault and the respondents cannot take benefit of their laches to deny the petitioner appointment on compassionate ground on the death of her husband which took place on 12.2.2014.

Having heard learned counsel for the parties, I find that so far as the instant writ application is concerned the prayers were two folds. So far as first prayer with respect to payment of death-cum-retiral benefits is concerned, even as per counsel for the petitioner, the same has been paid.

So far as the second prayer is concerned, the same relates to appointment on compassionate ground which cannot be granted till the deceased is a regular employee. There is no prayer in the instant case with respect to the regularization of the deceased employee who as per the representation of the petitioner as contained in Annexure-5 had been appointed in the work charge establishment. The respondent no. 6 in his



counter affidavit accepts that the petitioner's husband had applied for regularization.

So far as the prayer for appointment on compassionate ground is concerned, the same shall be considered by the respondent authorities/committee in accordance with law as and when any application is filed by the petitioner.

With the aforesaid observation, the writ application stands disposed of.

(Partha Sarthy, J)

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