

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 610 of 2017

In

Civil Writ Jurisdiction Case No.10916 of 2016

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1. THE STATE OF BIHAR, through the Secretary, Building Construction Department,
 2. The Chief Engineer (Work), Building Construction Department, Government of Bihar, Patna
 3. The Superintending Engineer, Building Construction Department, Building Circle, Muzaffarpur Building Division, Hajipur
 4. The Executive Engineer, Building Construction Department, Building Circle, Muzaffarpur Building Division, Hajipur
 5. The Accountant General (A & E), Bihar, Patna.

... ..Respondents/ Appellant/s

Versus

Manorama Devi, Wife of Late Ramchandra Sahi, Resident of Village – Anant Kamtaul, P.S. Kurhani, District Muzaffarpur

... .. Writ Petitioner/ Respondent/s

Appearance :

For the Appellant/s : Mr. Nikhil Kumar Agrawal, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2023

1. The issue raised in the above writ petition is with respect to the pension applicable to the writ petitioner, who is the sole respondent in the present memo of appeal.

2. The writ petitioner was the wife of an employee under the Building Construction Department, who died in harness on 29.06.2006. He was first appointed as a Muster Roll to the post of Store Chowkidar on 26.11.1981 under the Work



charge establishment by the Superintending Engineer, Public Works Department, Building Circle, Muzaffarpur. He was also granted a regular monthly salary and was also granted annual increments as well as revision of pay and worked uninterruptedly till his death in 2006. Even before his death, there were proceedings taken for regularization which did not fructify till his death.

3. The learned Single Judge allowed the application for family pension relying on *State of Bihar & Ors. vs. Md. Matin & Anr in L.P.A. No. 1211 of 2015 and Saraswati Devi vs. The State of Bihar & Ors. in C.W.J.C. No. 21724 of 2012*.

4. We, in addition, notice the judgment of a Full Bench of this Court in *Mobina Khatoon vs State of Bihar [2019(1) PLJR 1015*. The operative portion of the leading judgment in the above case is found in paragraph no. 70 which is extracted hereinbelow:

“70. For the aforesaid reasons, we deem it necessary and lawful to hold and declare the following that 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 workcharged



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.”

5. In the present case the petitioner had served more than 25 years in the work charge establishment. In such circumstances going by the aforesaid decision, we are of the opinion that the writ petitioner is entitled to the family pension. However, reckoning the huge delay of 10 years in approaching the Court for redressal of grievance, the arrears shall be limited to three years prior to the filing of the writ petition; which is on 12.07.2016. The arrears shall run from 12.07.2013 till the date of judgment.

6. The appellant shall compute the family pension payable as directed above and pay the same within a period of four months from the date of issuance of the certified copy of this judgment.



7. We allow the appeal partly, leaving the parties to
suffer their respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Spd/-Shiv

AFR/NAFR	
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