

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1537 of 2015

In

Civil Writ Jurisdiction Case No.1528 of 2014

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1. The State Of Bihar
 2. The Principal Secretary, Department Of Rural Works, Government Of Bihar, Vishveshwariya Bhawan, Patna
 3. Engineer-In-Chief-Cum-Additional Secretary-Cum-Special Secretary, Department Of Rural Works, Government of Bihar, Vishveshwariya Bhawan, Patna
 4. Chief Engineer, Rural Works, Government of Bihar, Vishveshwariya Bhawan, Patna
 5. Superintending Engineer, Rural Works Department, Works Circle, Bhagalpur
 6. Executive Engineer, Rural Works Department, Works Division, Munger

... .. Appellant/s

Versus

Smt. Rajkumari Devi w/o late Naresh Thakur Resident Of Village - Gorai,
P.S. Karariya, P.S. Noubatpur, District - Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. K.N.Jha, AC to GP 11
Mr. Santosh Chandra Bhaskar, AC to GP 11
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 Rural Works Department, who died in harness on



16.07.2007. He was first appointed as a daily wager to the post of Roller Khalashi and after about 6 years of work he was taken into the work charge establishment on 5.12.1987 by the Superintending Engineer, REO, Bhagalpur. He was also granted a regular scale of pay of Rs. 350 – 425 and worked uninterruptedly, for about 20 years, till his death in 2007. 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 *Most. Baby Devi vs. State of Bihar [2012(3) PLJR 910]*. Having gone through the aforesaid judgment there the grant was to the wife of an employee appointed before 1984; after which according to the State no regularisation was possible. His service in the work charge establishment could have been regularized after five years, in accordance with a notification. We do not find any application of the judgment in the present case.

4. We, however, 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 20 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 about 7 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 17.01.2014. The arrears shall run from 17.01.2011 till the date of judgment.

6. The appellant shall compute the family pension payable 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

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CAV DATE	N/A
Uploading Date	08.09.2023
Transmission Date	N/A

