

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9735 of 2022

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Satyabhama Devi wife of Late Narendra Prasad Singh, resident of Village-
Pacharah, P.O.- Pacharah, P.S.- Hisua, District- Nawada. Petitioner/s
Versus

1. The State of Bihar through the Secretary, Department of Water Resources,
Government of Bihar, Sinchai Bhawan, Patna.
 2. The Under Secretary, Department of Water Resources, Government of Bihar,
Sinchai Bhawan, Patna.
 3. The Engineer-in- Chief, Department of Water Resources, Government of
Bihar, Sinchai Bhawan, Patna.
 4. The Chief Engineer, Department of Water Resources, Katari Hill Road
Gaya, Bihar.
 5. The Superintending Engineer, Water Ways Circle, Gaya.
 6. The Executive Engineer, Tilaiya Canal Division, Wazirganj, Gaya.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukul Sinha, Adv.
For the Respondent/s : Mr.Anjani Kumar (AAG4)
Mr. Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV ORDER/JUDGMENT

30-04-2026 Heard Mr. Mukul Sinha, learned counsel for the
petitioner and Mr. Sanjay Kumar, learned AC to AAG-4.

2. The present writ petition has been filed for the
following relief(s):-

*“ (a) For quashing the
order dt. 17.05.2022 passed by
secretary, Water Resources
Department, (Respondent No. 1) and
Communicated by Under Secretary
(Respondent No. 2), Water Resources*



Department, vide memo no. 786 dt. 24.05.2022, by which the claim of husband employee of petitioner for post retrial benefits and also the family pension to the petitioner, after the death of her husband has also been rejected, on wholly wrong and illegal perception of law and facts.

(b) For issuance of an appropriate writ/order/direction to the respondents, to grant all the post retrial benefits to the husband -employee with effect from 31.01.2013, on which date, the husband -employee superannuated from service after attaining the age of 60 years, and after putting in 31 years of uninterrupted service and also for grant of the family pension to the petitioner with effect from 30.04.2021, ie. after the death of her husband with all consequential benefits of revision



from time to time.

The relief is being sought for on the ground that the husband -employee of petitioner is entitled for pension under Rule 59 of the Bihar Pension Rule reiterated by a division Bench decision of this Hon'ble Court in the case of Savarwati Devi (reported in 2017 (3) PLJR 645 (H.C)). So for as the decision of Full Bench in the case of Mobina Khatoon [reported in 2019 (1) PLJR 1015 (H.C)] is concerned, the same has extended the claim of pensionary benefits to work -charged employees also, without negating or interfering the right pension to daily wagers/temporary/ ad-hoc employees, in any manner, who has worked for more than 10 years and are entitled for pension, as provided in Rule 59 of the Bihar Pension Rules.



(c) For a direction to respondents for grant of adequate compensation, in view of litigating and harassing attitude of the Respondents for having pushed the husband -employee of petitioner for such a long drawn litigation (since 2013), when the petitioner retired on 31.01.2013, though the petitioner was entitled for same under Rule 59 of the Bihar Pension Rules, simplicitor and also the issue relating to entitlement of pension of ad-hoc/temporary employees/dally wagers, having been settled by successive decisions of this Hon'ble Court, (as mentioned aforesaid), and also the direction for the same, was given by this Hon'ble Court vide under dated 06.03.2019 in LPA. No.- 177/2017, filed by husband -employee. Still the same has not been granted, till date, thrusting the present



litigation upon the petitioner which otherwise, could have been avoided.

(d) Any other relief//relief/s for which the petitioner is entitled in the facts and circumstances of the case.

3. This case has a chequered history and before delving into the core issues for adjudication, it would be apt to give the details of the previous litigation history which are as follows:-

“1. First Round: Seeking Regularization and Pay Scale.

Case No: C.W.J.C. No. 6469 of 1998

Issues for adjudication: The husband of the petitioner sought absorption and appointment to a regular post under the Water Resources Department.

Disposed of *vide* order dated 12.10.1999: The Court directed the respondents to consider the claim for regularization. As an interim measure, it was ordered that until regular appointment was provided, the employee should be paid wages at the lowest stage of the time scale of pay for Class-IV posts with effect from October 1999.

2. Second Round: The "One-



Time Measure" Direction

Case No: C.W.J.C. No. 43 of 2005
Matter referred to Division Bench.

Issues for adjudication: Pertaining to the right to be regularized as a one-time measure following the Uma Devi's judgment reported in *[(2006) 4 SCC 1]*.

Disposed of *vide* Order dated 30.11.2006, The Court directed the State to constitute a committee to consider regularization as a one-time measure for those who had completed 10 years of service.

3. Third Round: Challenging the Rejection of Regularization.

Case No: C.W.J.C. No. 7144 of 2009

Issues for adjudication: Challenging the order dated 29.04.2009 by which the 3-member committee rejected his claim for regularization and directed his disengagement.

Vide order dated 30.06.2009: The High Court stayed the operation of the disengagement order. allowing the husband of the petitioner to continue in service and finally disposed of the matter on 04.03.2010 by constituting Hon'ble Justice Uday Sinha Committee to address the issues and adjudicate the same.

Authority: Justice Uday Sinha



Committee Proceedings initiated vide Misc.
Case No. 229/2010

Issues for adjudication: Scrutiny of daily wage employees for regular absorption pursuant to Court directions was done.

Vide Order dated 20.07.2011: the committee allowed continuation in service pending final decision (with the rider that "no equity will accrue") and disposed of the Misc. Case No. 229/2010 and directed the Chief Engineer to fill vacant regular posts within six months, giving preference to daily wagers.

4. Fourth Round: Seeking Retrospective Regularization Post-Retirement

Case No: C.W.J.C. No. 23218 of 2013

Order Date: 01.12.2016

Issues for adjudication: After being disengaged on 31.01.2013 (Annexure-9) upon superannuation, the husband of the petitioner sought regularization with retrospective effect and post-retiral benefits.

Order: The writ petition was dismissed. The Court held that regularization cannot be granted retrospectively after an employee has already superannuated.

5. Fifth Round: The Letters Patent Appeal (LPA)



Case No: L.P.A. No. 177 of 2017

Issues for adjudication: Appeal against the dismissal of the claim for regularization and pension.

Vide Order dated 06.03.2019: The Division Bench disposed of the appeal while setting aside the order passed in CWJC No. 23218 of 2013, and directed the State to examine the claim specifically in light of the law settled by the Full Bench in the case of *Mobina Khatoon vs. State of Bihar* reported in 2019(1) PLJR 1015.

Further contempt petition being MJC No. 2575 of 2019 was disposed of vide order dated 25.02.2020 with liberty to the petitioner for filing writ petition or

6. Sixth Round: Challenging the Departmental Rejection

Case No: C.W.J.C. No. 5015 of 2021

Issues for adjudication: Challenging the departmental rejection dated 03.10.2019 (Annexure-B), which claimed ***Mobina Khatoon (Supra)*** did not apply to daily wagers. (The husband of the petitioner died on 03.04.2021 during pendency; the petitioner was substituted).

Vide Order dated 23.03.2022: The Court permitted withdrawal of the writ with liberty to file a fresh representation before the Principal Secretary, who shall decide the



claim by passing a reasoned order.

7. Current Round: Challenging the Final Rejection

Case No: C.W.J.C. No. 9735 of 2022 (Present Case)

Issues for adjudication:
Challenging the final rejection order dated 17.05.2022 (communicated via Memo No. 786 dated 24.05.2022).

Relief Sought: Quashing of the rejection and a direction to grant all post-retiral benefits of the deceased husband and family pension to the petitioner.”

ORAL/WRITTEN SUBMISSIONS OF THE PETITIONER

4. Learned counsel on behalf of the petitioner submits that the husband of the petitioner was initially engaged as a daily wager on a Class IV post on 18.10.1982, under the Irrigation Department, now known as (Water Resources Department), under the orders of the Superintending Engineer, being the competent authority to make such engagement. Subsequently, the deceased employee was granted a regular pay scale of Class IV employee w.e.f. October 1999 under the orders of this Hon'ble Court, keeping the issues pending related to regularization. The deceased employee, thereafter, continued to



serve the department for almost 31 years of uninterrupted service until his superannuation on 31.01.2013. Thus, the status of the deceased employee was shifted to that of a temporary one and pursuant to the Government order issued at the level of the State Government, a direction was issued for initiation of regularization process of daily wagers, and the name of the deceased employee along with others were included in the list of workers serving since the date of entry/engagement, which was prepared by the Executive Engineer, Tilaiya Canal Division, Gaya, where the petitioner was initially engaged.

5. It is the case of the petitioner that the husband of the petitioner was initially engaged as a daily wager on a Class IV post on 18.10.1982 in the then Irrigation Department (now Water Resources Department) by the competent authority, the Superintending Engineer. Subsequently, the deceased employee was granted a regular pay scale of a Class IV employee w.e.f. October 1999 under the orders of this Hon'ble Court dated 12.10.1999 passed in C.W.J.C. No. 6469/1998 (Annexure-2) pending regularization, followed by a government order. The deceased employee thereafter served for 31 years of uninterrupted service until his superannuation on 31.01.2013. The State Government vide Memo No. 914 dated 17.07.1990,



directed for initiation of the regularization process of daily wagers, and the deceased employee's name along with other similarly situated was included in the list of workers serving since 1982 sent by the Executive Engineer, Tilaiya Canal Division, Gaya. It is submitted that some of the daily-wagers were regularized but no such action was taken in respect of deceased-employee. When no action was taken for his regularization, the deceased-employee moved this Hon'ble Court in C.W.J.C. No. 6469/1998, which was disposed of on 12.10.1999 (Annexure-2) with a direction to consider his case along with others for regularization "within six months" and to provide them with the minimum of the regular time scale of pay, attached to the post, which the deceased employee and others were holding. Hence, vide order no. 2639 dated July 12, 2020, the husband of the petitioner and others started getting regular pay scale. The Respondents withdrew the regular scale granted to all such employees including the petitioner's husband, whose regularization was pending and consequently, the husband of the petitioner and as also the similarly situated persons being aggrieved with such action again moved before this Court by filing Writ Petition being CWJC No. 43 of 2005 and several other writ petitions were also filed by similarly situated affected



employees with an additional prayer to regularize the services of petitioner's husband and others as directed earlier vide order dated 12.10.1999 in CWJC No. 6469 of 1998. The general order dated 31.08.2004, which was also challenged in a separate writ petition being CWJC No. 11820 of 2004 filed by one Rajendra Chaudhary & Ors being similarly situated, were separately heard and vide order dated 21.02.2005, the Hon'ble Court was pleased to quash the order dated 31.08.2004 and accordingly the payment of minimum pay-scale got continued to be given w.e.f. October, 1999 till the date of the superannuation of the husband of the petitioner, namely, Narendra Prasad Singh.

6. It is further submitted that the writ petition filed by the husband of this petitioner being CWJC No. 43 of 2005 along with other writ petitions were referred to Division Bench and all those matters were heard analogously and the State Government was directed to constitute a Committee of three Secretaries of different works Department in order to see, whether the benefits of paragraph-53 as stipulated in *Uma Devi's case* to provide one time measure for regularization, can be explored in the case of these persons and the Hon'ble Division Bench had also directed to maintain status-quo and accordingly, the petitioner's husband and as also similarly



situated persons continued to receive the minimum pay-scale.

7. It has further been submitted that in compliance of the directions issued by the Hon'ble Division Bench, a Committee of three Secretaries were constituted and the cases of these persons were considered and a checklist was prepared but ignoring the factual material and on the basis of erroneous fact, the Committee recommended for removal from service to all the employees including the deceased husband of the petitioner. Accordingly, the decision of the three members Committee was executed by the Executive Engineer, Wazirganj, Gaya vide Memo No. 675 dated 29.04.2009, and the petitioner's husband and as also other similarly situated persons were removed from their services.

8. The recommendation of the Committee and as also the consequential order passed became the subject matter of challenge before this Hon'ble Court in various other writ petitions being CWJC No. 7144 of 2009 and its analogous case and all these writ petitions were referred to the Hon'ble Division Bench. The Hon'ble Division Bench comprising the Hon'ble Chief Justice and Hon'ble Mr. Justice Ramesh Kumar Datta heard the writ petition being CWJC No. 7144 of 2009 and



its analogous case and with a view to regularization, appointed a Commission of Hon'ble Mr. Justice Uday Sinha, to scrutinize the appointment of all such employees and to see whether they can avail the benefits of regularization in terms of the decision rendered by the Hon'ble Apex Court in the case of *Uma Devi* reported in *(2006) 4 SCC 1*.

9. It is next submitted by the learned counsel for the petitioner that a one man Committee so constituted under the orders of Hon'ble Division Bench who was directed to verify the facts with reference to the records available with the department and for verifying the facts, the one man Committee instituted a Misc. Case no. 229 of 2010 and after verifying the records, summoned the Principal Secretary, Water Resources Department in person, who gave an undertaking that the steps will be taken to fill up the vacant post within a period of six months from 20.07.2011 and this petitioner on the date of passing of this order was very much in service and accordingly, the Miscellaneous case was disposed of, insofar the case of the petitioner's husband and other similarly situated persons are concerned, with a direction to fill up the vacant posts in a regular manner within six months giving preference to all the existing employees, which would be evident from the order



dated 20.07.2011 passed by the one man Committee in Misc. Case No. 229/2010.

10. Learned counsel for the petitioner submits that the husband of the petitioner waited for regularization in service along with others in accordance with the undertaking given by the Respondents before the one man Committee but the Respondents did not take any steps for regularization despite representation having been made in this regard by the late husband of the petitioner and ultimately, the petitioner's husband was made to superannuate on 31.01.2013.

11. The petitioner filed representation after his superannuation for grant of pension but the same was rejected on 06.04.2014, which became the subject matter of challenge in CWJC No. 23218 of 2013 and the same was dismissed by referring to the Rule 58 of Bihar Pension Rules and as also by holding that the retrospective regularization of daily wager cannot be directed and if the petitioner's husband has remained as a daily wager, the consequence is that he will not be governed under the Bihar Pension Rules. The judgment rendered by the learned Single Judge became the subject matter of challenge in LPA No. 177 of 2017 and the Hon'ble Division Bench after



clubbing all such case along with other appeals of work-charge employees fixed the same for consideration and during course of the adjudication on specific objections being taken by them with regard to the full Bench Judgment rendered in the case of ***Durga Nand Jha [reported in 2007 (4) PLJR 259]*** and ***Bhagwan Singh [reported in 2014(4) PLJR 229]***, which having not considered the import and implication of Rule 59 of Bihar Pension Rules and even the earlier Division Benches, which also rejected the similar claim have not considered the import of Rule 59 of Bihar Pension Rules and subsequent declaration made by the State Government vide various Memos like Memo dated 12.08.1969 holding that the Full Bench judgment does not lay down the correct principles and upon being faced with such situation, the Hon'ble Division Bench referred the matter to the Hon'ble Full Bench for reconciling the issues in question and as also for laying down the correct legal proposition in reference to Rule 58 and as also Rule 59 of Bihar Pension Rules. On reference having been made by the Hon'ble Division Bench, the matter was placed before the Hon'ble Full Bench and the Hon'ble Full Bench, so constituted heard the reference on 20.09.2018 and the following observations were made:-



*“4. At this stage, learned counsel appearing on behalf of the State has submitted that the decision of the Division Bench in the case of **Saraswati Devi** (supra) is in conflict with the subsequent decision of the Division Bench in the case of **State of Bihar and Ors. Vs. Bimli Devi**, dated 24.11.2015 in Letters Patent Appeal No. 1566 of 2015.*

*5. As and when these Appeals are taken up for further hearing before the Division Bench, it will be open for the State to make submissions on the above and if the Division Bench is of the opinion that there is conflict in Division Bench decisions, namely, in the case of **Saraswati Devi** (supra) and in the case of **Bimli Devi** (supra), in that case, the Division Bench may refer the matter to the Full Bench after having noted that there is conflict in two Division Bench decisions.*

*6. In view of the above and for the reasons stated above, as observed above, as there is no conflict between the decision of the Division Bench in the case of **Saraswati Devi** (supra) and the decisions of the Full Bench the case of **Durganand Jha and Ors.** (supra) and in the case of **Bhagwan Singh (since dead)** (supra), for which the matters*



*are referred to the Full Bench, we are of the opinion that the reference itself is bad and the matters are required to be returned to the Division Bench and, accordingly, are returned to the Division Bench/sent back to the Division Bench to consider the Appeals in accordance with law on merits and the Division Bench before whom the matters are listed may also consider whether there is a conflict between the two decisions of the Division Bench, one in the case of **Saraswati Devi** (supra); and another in the case of **Bimli Devi** (supra) and if the Division Bench is of the opinion that there is conflict between the same, the Division Bench can/may refer the matter to the Full Bench.*

7. Now, all these present Appeals, in view of the above, to be placed before the Division Bench taking up such matters.”

12. After the reference in question was adjudicated by the Hon’ble Full Bench, the matters were remitted back to the Hon’ble Division Bench for considering the respective appeals including the one filed by this petitioner being LPA No. 177 of 2017 on merit and upon consideration, the following orders were passed on 06.03.2019 in LPA No. 969 of 2015 and



its analogous cases:-

“Each of these intra-Court appeals filed under Clause-X of the Letters Patent of the High Court of Judicature at Patna arise from the judgment and order of a learned Single Judge, whereby in consideration of the claim made by the work charge employee and/or his dependent either the claim has been upheld or has been rejected.

To be specific, while L.P.A. No. 435/2017 is an Appeal filed by the Respondent State feeling aggrieved by the acceptance of the claim by a learned Single Judge of this Court for pensionary benefit to a work charge employee/dependent, in so far as other appeals are concerned, since the claim towards the pensionary benefit has been rejected that they are before this Court.

The matter was heard and kept pending because the issue, whether or not, a work charge employee and/or his dependent is entitled to pensionary benefit was pending consideration before a Full Bench of this Court in LPA No. 166/2018 (Mobina Khatoon versus the State of Bihar & Ors.) and LPA No. 289/2018 (State of Bihar &



Ors. Versus Soniya Devi & Anr.).

The judgment of the Full Bench has since been delivered and is reported in 2019 (2) BLJ 9 and since these matters were directed to be posted on disposal of the Full Bench matter, that these matters were listed yesterday and when Mr. Siyaram Pandey, learned Counsel appearing for the appellant in LPA No. 1406/2016 produced a copy of the Finance Department, Government of Bihar to submit that steps have been taken towards the compliance of opinion of the Full Bench.

Since Mr. Dhirendra Kumar, learned AC to AAG 6 expressed reservation on the action taken as well to examine the judgment of the Full Bench that the matter is posted today and when Mr. Dhirendra Kumar, learned AC to AAG 6 admits to the steps taken by the Government of Bihar in the light of the opinion expressed by the Full Bench on the issue raised and contested. For the sake of convenience we are persuaded to reproduce the relief prayed by the appellants in their respective writ petitions and which reads under:

....."Re: L.P.A.No. 177/2017



arising from C.W.JC. No. 23218/2013. The appellant-petitioner has prayed for the following relief:

(1) For an appropriate direction to the Respondents to fill up the sanctioned vacant posts in accordance with the undertaking given by Principal Secretary, Water Resources Department on 20.07.2011 before Hon'ble Mr. Justice Uday Sinha Commission within six months which will have natural effect of regularization of petitioners services as unskilled labour in the Water Resources Department with effect from 1982, against which petitioner, alongwith others had been working since 1982 till his normal date of superannuation from service, on 31.01.2013, on attaining the age of 60 years.

(ii) An appropriate direction for payment of post retiral benefits to the petitioner, in as much as the order dt. 30.01.2013 relieving the petitioner from engagement also states that he is being relieved in pursuance of attaining his age of superannuation of 60 years, which is akin in treating him as a regular employee.”

..... “The Full Bench on



examination of the judgments passed on the issue by this Court from time to time, has finally concluded at Paragraph-70 in the following terms:

"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."

Since the State respondents had rejected the claim of the writ petitioners in view of the legal position that was prevailing at the relevant time and which decision of the State also has been affirmed by the learned Single Judge in the opinion expressed except for the writ petitioner who are respondents in L.P.A.No. 435/2017, we are of the view that the issue raised by the work charge employees and/or their dependents requires to be addressed upon by the concerned respondents afresh in the light of the opinion of the Full Bench expressed in the case of Mobina Khatoon (supra) and for passing appropriate orders towards admissibility/ inadmissibility of the pensionary benefits to these appellants-petitioners.

We would thus direct the concerned authorities in the respondent Department in each of the appeals/ writ petitions, to examine the claim of the appellants- petitioners except the writ petitioner in L.P.A.No. 435/2017 and pass appropriate orders bearing in mind the Full Bench expression found at Paragraph-70 of the judgment and which decision be taken



*within a period of six weeks from the receipt/
production of a copy of this order.*

*In so far as L.P.A.No. 435/2017 is
concerned, it has to yield to the opinion of
the Full Bench and is accordingly dismissed.*

*In result, the judgment and order
passed by the learned Single Judge in
C.W.J.C.No. 130/2014, C.W.J.C.No.
17988/2015, C.W.J.C.No. 6174/2015,
C.W.J.C.No. 23218/2013 and C.W.J.C.No.
12986/2015, which are subject matter of
L.P.A.No. 969/2015, L.P.A.No. 30/2018,
L.P.A.No. 1406/2016. L.P.A.No. 177/2017
and L.P.A.No. 1736/2017, are set aside.
Consequently, the writ petitions are disposed
of in terms of the directions stipulated above.
While L.P.A.No. 435/2017 is dismissed, the
rest of the appeals are allowed in terms of
the judgment of the Full Bench rendered in
the case of Mobina Khatoon (supra) and
with the direction present therein.*

No order as to costs.”

13. From the judgment rendered by the Hon'ble
Division Bench, in the aforesaid LPA No. 177 of 2017 filed by
this petitioner, vide order dated 06.03.2019, it is quite evident
that the judgment of the learned Single Judge passed in the case



of petitioner's husband in CWJC No. 23218 of 2013 was set aside and consequently, the case of the petitioner was referred to have been considered in terms of the judgment of the Hon'ble Full Bench expression found at Paragraph-70 of the Judgment rendered in the case of *(Mobina Khatoon)* (*supra*) but the Respondents sat tight over the matter and, accordingly, for enforcement of the order passed in LPA No. 177 of 2017 being MJC No. 2575 of 2019 which was withdrawn in view of stand taken by the State with a plea to file review seeking adjudication of his rights in accordance with law and accordingly, the contempt petition was disposed of.

14. It is next submitted that the petitioner filed a writ petition being CWJC No. 5015 of 2021 for enforcement of his right and the said writ application was disposed of with a direction to file representation before the Principal Secretary, Water Resource Department, who shall pass a reasoned order in the said case.

15. It is next submitted that without considering the case of this petitioner in its true perspective and as also the concern shown by the Full Bench, which emanates from the observation made in the Full Bench judgment rendered in



(Mobina Khatoon) (*supra*) the claim of this petitioner has been rejected, which is a subject matter of challenge in the present writ petition.

16. Learned counsel for the petitioner for assailing the impugned order forming part of the present writ petition, submits that the Hon'ble Full Bench judgment rendered in the case of **(Mobina Khatoon)** (*supra*) considered the entire gamut of grant of pension of temporary/ *ad hoc*/daily wager and other category of employees including the employees of work-charge establishment nonetheless relying upon the decision in the case of **Sarswati Devi** (*supra*), the Full Bench placed the case of work-charge employees at par with temporary/adhoc employees who have worked for 10 continuous years or more. The full Bench Judgment dated 04.02.2019 held that all categories of employees who have worked for more than 10 years are entitled to grant of pension and in view of the judgment rendered by the Hon'ble Division Bench in the case of petitioner's husband in LPA No. 177/2017 along with other analogous appeals, the Respondents were to examine the claim on individual facts, but the reason assigned in the impugned order was that the decision of the Full Bench rendered in the case of **Mobina Khatoon** relates to work-charge establishment and, this petitioner is not



entitled to grant of pension, which is fallacious.

17. The learned counsel further mentions that the case of the deceased-employee stands solely on the basis of Rule 59 of the Bihar Pension Rules fortifies with the Division Bench judgment of this Hon'ble Court in the case of Sarswati Devi and even without the aid of any other materials, the contempt application being MJC No. 2575 of 2019 filed at their end was disposed of on 25.02.2020 and subsequent writ petition, which came to be filed, during the pendency of the same, the husband of this petitioner, unfortunately, passed away on 03.04.2021 and this petitioner being the widow-wife was substituted in his place and *vide* order dated 23.03.2022, the writ petition was disposed of with a liberty to file a detailed representation to Secretary, Water Resource Department and specific direction was given to dispose of the representation of this petitioner strictly in terms of the direction issued in LPA No. 177 of 2017. The petitioner submitted a comprehensive representation on 12.04.2022 (Annexure-17) detailing the facts and the applicable laws laid down in Rule 59 of the Bihar Pension Rules as well as the direction of the Hon'ble Court.

18. However, by the impugned order dated



17.05.2022 communicated *vide* Memo No. 786 dated 24.05.2022 (Annexure-1), the Respondent-Secretary rejected the claim of the petitioner for post-retiral benefits holding that the Full Bench decision in ***Mobina Khantoon (supra)*** applies only to work-charged employees and hence, such benefits cannot be given in this case. However, the impugned order (Annexure-1) did not consider that this Hon'ble Court has already held in the case of ***Bhagwan Singh*** (supra) is not in conflict with the decision of the case of ***Sarswati Devi*** (Supra), the impugned order also did not consider that the husband of Sarswati Devi was also a daily wager and further, the deceased employee had already earned 31 years of uninterrupted service, and therefore, the petitioner who is widow of the deceased employee is entitled to the benefits of family pension under the provisions of Bihar Pension Rules.

19. Learned counsel for the petitioner has also relied upon a judgment of the Hon'ble Apex Court as rendered in the case of ***Yashwant Hari Katakhar v. Union of India And Others*** (1996) 7 SCC 113 which is reproduced as under:-

“.....3. Dr Anand Prakash,
learned Senior Advocate appearing for the
Union of India, has contended that on 7-3-



1980 when the appellant was prematurely retired he had put in 18 1/2 years of quasi-permanent service. According to him, to earn pension it was necessary to have a minimum of 10 years of permanent service. It is contended that since the total service of the appellant was in quasi-permanent capacity he was not entitled to the pensionary benefit. There is nothing on the record to show as to why the appellant was not made permanent even when he had served the Government for 18 1/2 years. It would be travesty of justice if the appellant is denied the pensionary benefits simply on the ground that he was not a permanent employee of the Government. The appellant having served the Government for almost two decades it would be unfair to treat him as temporary/quasi-permanent. Keeping in view the facts and circumstances of this case we hold that the appellant shall be deemed to have become permanent after he served the Government for such a long period. The services of the appellant shall be treated to be in permanent capacity and he shall be entitled to the pensionary benefits. We allow the appeal, set aside the judgment of the Tribunal and direct the respondents to treat the appellant as having been retired from



service on 7-3-1980 after serving the Government for 18 1/2 years (more than 10 years of permanent service) and as such his case for grant of pension be finalised within six months from the receipt of this order. The appellant shall be entitled to all the arrears of pension from the date of retirement. No costs.

**ORAL/WITTEN SUBMISSIONS ON BEHALF OF THE
RESPONDENT -STATE**

20. Learned Counsel on behalf of the Respondents No. 2 to 6 submits that the deceased husband of the petitioner, namely Narendra Prasad Singh, was initially engaged as a Chowkidar in the year 1982 purely on a daily wage basis. Following a writ application filed by several daily wages employees in 1998 seeking absorption / appointment/ regularization, the Hon'ble Court passed an order dated 12.10.1999 in C.W.J.C. No. 6469 of 1998 (Annexure-2), directing the authorities to consider their claims and, as an interim measure, to pay them the lowest stage of the regular time scale of pay from October 1999 until a regular appointment was made. In compliance, the Chief Engineer, Water Resources Department, Patna, issued Memo No. 2639 dated 12.07.2000, granting the deceased the minimum scale of pay. The claim for



regularization of service of the husband of the petitioner and others was eventually rejected on 29.04.2009, and although the disengagement was stayed by the Hon'ble Court on 30.06.2009 in C.W.J.C. No. 7144 of 2009 (Annexure-6), a subsequent one-man committee headed by Hon'ble Mr. Justice Uday Sinha (Retd.) and order for continuation in service was directed vide order dated 04.03.2010 (Annexure-7) with the explicit rider that no equity will accrue to such persons.

21. It is further submitted by the Learned Counsel that while the committee on 20.07.2011 (Annexure-8) directed the filling of vacant sanctioned posts in regular manner within six months by giving preference to employees working on daily wages. In pursuance of the said direction, the process for absorption was started and on the basis of the recommendation of the Selection Committee, chaired by the District Magistrate, Gaya, vide Letter No. 1884 dated 16.09.2013 (Annexure-10). Based on these recommendations, the Chief Engineer, Water Resources Department, Gaya recommended for appointment of daily wages employees in regular and permanent establishment by way of absorption vide office order contained in Memo No. 2059 dated 17.12.2013. However, since, the petitioner's husband had already been disengaged on 31.01.2013



(Annexure-9) upon attaining the age of superannuation, he was not recommended by the selection committee for appointment.

22. The Learned Counsel on behalf of the Respondent submits that the husband of the petitioner approached this Hon'ble Court after his disengagement in the year 2013 and filed a writ application in C.W.J.C. No. 23218 of 2013 seeking direction to the respondents to regularize his daily wages service with retrospective effect and to make payment of post-retirement benefits as admissible to the regular and permanent employees of the State Government. The respondents filed counter affidavit in the aforesaid case denying the claim of the husband of the petitioner on the ground that he worked as a daily wages' employee all along his service against non-sanctioned and non-vacant post since only one post of Chowkidar was sanctioned and vacant against which one Umesh Prasad Single had already been appointed on 01.12.1979. It was submitted that there is no provision for regularization of service of a daily wages' employee with retrospective effect. The respondents further relied on the legal principles established in Shreeniwas Poddar vs. State of Bihar [2016 (2) PLJR 344] which hold that no order of retrospective regularization can be passed and similar view was taken in Mahesh Kumar vs. Union



of India [2016 (2) PLJR 334] holding that on attaining the age of superannuation, there cannot be a direction for regularization in service. Crucially, it was also submitted that there is no provision under the Bihar Pension Rules to reckon the daily wages service as pensionable service. As per Rule 58, service does not qualify unless the employment is substantive and permanent; Rule 60 of Bihar Pension Rules provides that the service of a government servant does not qualify for pension unless he is appointed and his duties and pay are regulated by the Government; and Rule 61 provides that service does not qualify unless government servant holds a post substantively on a permanent establishment. As such the daily wages service of the husband of the petitioner cannot be treated as a pensionable service. It was further submitted that the daily wages service cannot be termed as temporary service like the service rendered in the work charged establishment. This position is supported by the Full Bench judgment in State of Bihar vs. Bhagwan Singh [2014 (4) PLJR 229], wherein after considering the provisions prescribed under Rules 45, 56, 58 and 61 of Bihar Pension Rules, it was held that service as a daily wage Chowkidar, even if followed by absorption, does not qualify for pension as it is not service on a substantive post in a permanent establishment.



After due consideration of the aforesaid submissions, the Hon'ble Court was pleased to dismiss the writ application of the husband of the petitioner vide judgment dated 01.12.2016 passed in CWJC No. 23218 of 2013 (Annexure-11 to the writ application) holding that in the light of the aforesaid view taken by this Court, it is not possible for the Court to pass an order in favour of the petitioner to grant him regularization from the date of his entry in service in the year 1982. Since, he has remained a daily wager throughout his service, the consequence is that he will not be governed under the Bihar Pension Rules. The husband of the petitioner further preferred letters patent appeal against the aforesaid judgment vide L.P.A. No. 177 of 2017 which was heard along with L.P.A. No. 969 of 2015 and analogous cases and allowed by a common Judgment dated 06.03.2019 (Annexure-14 to the writ application) with direction to the authorities of the concerned respondent department to examine the claim of the appellants-petitioners and pass appropriate orders bearing in mind the Full Bench expression found at Paragraph 70 of the judgment passed, in L.P.A. No. 166 of 2018 (Mobina Khatoon v. The State of Bihar and others).

23. Learned Counsel on behalf of the Respondents further submits that the petitioner's reliance on the cases of



Mobina Khatoon [L.P.A. No. 166 of 2018] and Saraswati Devi [2017 (3) PLJR 645] is misplaced. Upon examination of the husband of the petitioner's representation submitted before the Executive Engineer, Tilaiya Canal Division, Wazirganj on 22.06.2020, it was determined that the directions in *Mobina Khatoon(supra)* apply exclusively to work-charged employees, who completed 10 years of service, whereas the petitioner's husband was all along a daily wager. As such the Executive Engineer forwarded the representation of the husband of the petitioner to the higher authorities vide Letter No. 368 dated 24.06.2019 (Annexure-A) and subsequently legal opinion was sought from the Law Department, Bihar on the representation of the husband of the petitioner, the Law Department examined the claim of the husband of the petitioner in the light Full Bench judgment passed in L.P.A. No. 166 of 2018 (*Mobina Khatoon vs. The State of Bihar and others*). Thereafter, upon careful perusal of the aforesaid Judgment, the Department found that the husband of the petitioner was never in the work charge establishment rather was all along a daily wager and thus opined that if representation is to be considered in terms of the Full bench judgment that lays down law with respect to work charge establishment employee having worked for 10 years or more, this



case is not covered by the Full Bench decision of the Hon'ble High Court. In the light of the aforesaid opinion, the representation of the husband of the petitioner was rejected by the Department and communicated vide letter no. 1944 dated 03.10.2019 (Annexure-B). The Learned Counsel further submits that judgment passed in Saraswati Devi's case as reported in 2017 (3) PLJR 645 also pertains to payment of post-retirement benefits to the work-charge employees and not to the daily wagers and was also under consideration by the aforesaid Full Bench judgment passed in Mobina Khatoon's case. As such the said case is also of no help to the petitioner.

24. Learned Counsel on behalf of the Respondents lastly submits that the husband of the petitioner assailed the aforesaid order dated 03.10.2019 by filing a writ application in this Hon'ble Court vide C.W.J.C No. 5015 of 2021. Unfortunately, he died during pendency of the writ application and the present petitioner was substituted in his place. The said writ application was disposed of as withdrawn vide order dated 23.03.2022 (Annexure-16 to the writ application) with direction to the Principal Secretary, Water Resources Department to dispose of the representation of the petitioner by a reasoned order. In compliance of the aforesaid order, the Principal



Secretary, Water Resources Department, Patna, Bihar, personally heard the petitioner on 17.05.2022, after due consideration in the light of the aforesaid judgments as well as the opinion of the Law Department, the claim of the petitioner was not found admissible and thus rejected the claim for pension and family pension vide the reasoned order in Memo No. 786 dated 24.05.2022 (Annexure-1). Lastly, the respondents maintains that this order is in accordance with law and does not suffer from any infirmity, hence, the said order does not warrant any interference.

25. Learned Counsel for the State in the written submission submits that the deceased husband of the petitioner was a daily wage employee, who superannuated from service on 31.01.2013 in that capacity, without his services ever being regularized. The State emphasizes that the deceased had previously approached this Hon'ble Court for regularization in C.W.J.C. No. 23218 of 2013, which was dismissed via an exhaustive order dated 01.12.2016 (Annexure-11). In that proceeding, the Court relied on Supreme Court precedents to hold that regularization cannot be granted with retrospective effect; consequently, the current writ is strictly limited to the widow's claim for family pension. The State categorically



contends that the landmark Full Bench decision in *Mobina Khatoon vs. State of Bihar* [2019 (1) PLJR 1015] and the case of *Saraswati Devi* are inapplicable to the present matter. These judgments specifically pertain to "work-charged" employees, and the State maintains that the legal benefits and pensionary rights extended to the work-charged establishment cannot be extended to daily wagers. Since the deceased remained a daily wager until his retirement, his service does not meet the criteria for pensionable service under the Bihar Pension Rules.

26. Furthermore, the State submits that the legal issue regarding daily wagers and pensionary benefits is currently a subject of conflict and should be referred to a Larger Bench. The State relies on the order dated 25.07.2025 passed in L.P.A. No. 657 of 2021 (*Yugal Kishore Upadhyay vs. State of Bihar*), where a similar matter was referred to a Larger Bench due to conflicting views between *Registrar General, High Court vs. Ram Beyas Dubey* (L.P.A. No. 198 of 2016) and *State of Bihar vs. Bhagwan Singh* [2014 (4) PLJR 229]. In the *Bhagwan Singh* case, it was explicitly held that periods spent on daily wages cannot be counted for pensionary benefits. In the alternative, the State argues that if the Court settles a new law in favour of the petitioner, the relief must be granted prospectively



rather than retrospectively. This alternative plea is based on the decision in *Saraswati Devi vs. State of Bihar* (C.W.J.C. No. 21724 of 2012), where the Court held at paragraph 14 that since the liability to pay is being fixed upon the State for the first time and the law was previously unclear, the payment of family pension and gratuity should be prospective in nature. Therefore, the State maintains that the impugned order in Memo No. 786 dated 24.05.2022 (Annexure-1) is legally sound and the petitioner is not entitled to the sought reliefs.

CONSIDERATION

27. This Court has considered the submissions of the petitioner and as also that of learned counsel for the Respondents-State and finds that this case has a chequered history and the petitioner and as also her husband since the date of engagement of the deceased employee have continuously been coerced to knock the doors of the Hon'ble Court and the relief for which, he has has been fighting since the year 1999 could not be achieved by the husband of the petitioner even while he was alive and his unadjudicated grievances of regularization is now being battled by his widow-wife, who is before this Court fighting litigation to find some ways to fetch



the source of livelihood and to lead a peaceful life after the death of her husband. It is a very sorry state of affairs where during the life-time of the deceased employee, the Hon'ble Division bench had interfered in the matter and constituted a Committee to get the issues resolved and one man Committee of Hon'ble Justice Uday Sinha (Retd.) was constituted, who heard this matter and after having examined the entire records, the Principal Secretary of Water Resource Department was also summoned and on the undertaking having been given by the head of the Department, all the matters related to Misc. Case no. 229 of 2010, in which, the petitioner's husband case was also considered, the Respondents were under a legal obligation to carry out the undertakings, which, in fact was carried out by them but such exercise could only be undertaken after this petitioner had superannuated and the direction which was issued uniformly in respect of the petitioner's husband and as also in respect of the other similarly situated persons to regularize their services giving weightage of their past services, could not be carried out in respect of husband of this petitioner as per the State, on account of the fact that on the date of consideration, the deceased employee had superannuated.

28. When there was non-consideration of petitioner's



husband case leading to non-grant of pensionary benefits became the subject matter of challenge, the authorities very intelligently took a plea before the learned Single Judge that retrospective regularization cannot be made in respect of the petitioner's husband because he was a daily-wager and has already superannuated and in view of the judicial pronouncement, the regularization after attaining the age of superannuation, cannot be made and consequently, the claim of the petitioner's husband got rejected, which became the subject matter of challenge before the Hon'ble Division Bench and the Hon'ble Division Bench having interfered with the nature of order passed in the case of the petitioner's husband, the authorities were required to have considered the case of the petitioner's husband, keeping in row the fact that at some point, it becomes necessary to interpret the legal provisions for adjusting the equity, so as to mitigate the harshness of the law, by blending it with fairness and equity and while doing so, one has to remain very cognizant and conscious of the motive and philosophy of the provisions of pension by keeping the object in mind and the goal which is required to be achieved in deciding about the service being pensionable. These deep concerns find place in the judgment of the Hon'ble Full Bench rendered in the



case of (***Mobina Khantoon***) (supra) but for the reasons best known to the authorities, no such exercises are said to have been carried out in the case of this petitioner.

29. It is in this background, the Hon'ble Full Bench (***Mobina Khantoon***) (supra) had decided the issues of the employees, who were either dead on the date of such consideration or had already expired even without completing their service tenure or had superannuated, so that, the employees in question or his family members, may not face financial distress, after the death of the sole bread-earner in the family and there is nobody to look after them in the evening of their lives. The authorities should have been very cognizant while rejecting the claim of this petitioner that in the State of Bihar not very large percentage of population has the source of livelihood, while the remaining population do not have any permanent means to fetch a source of livelihood. It is in this background, the petitioner's husband had found a source of livelihood for his family and still for the reasons best known to the authorities the deceased employee had to consistently remained before this Court to secure the financial resource to feed his family all through his life.



30. The desire of every head of the family to protect its members with full financial support is a general phenomenon, which every citizen can legally hold such feel but in a situation where the petitioner's husband and as also the widow-petitioner had to remain on the judicial platform for almost 28 years for finding a permanent financial stability, is a very worrying state of affair, for which the State authorities are required to bend for adjusting equity in terms of the judgment of Hon'ble Full Bench rendered in ***Mobina Khatoon (supra)*** wherein it has been observed as follows:-

“Ab identitate rationis, it would perforce be necessary for us to bend for adjusting equity so as to mitigate the harshness of the law by blending it with fairness and equity. While doing so, we are only remaining cognizant and conscious of the motive and philosophy of the provision of pension and are continuously keeping in mind, the goal to be achieved in deciding about a service being pensionable. The goal is nothing, but a fortiori recognition of the services rendered by an employee, so that in the evening of his life, he does not have the fall prey to scarcities and in case of his death, his family may not be reduced to



impecunious vagrancy.”

31. From the close scrutiny of the factual aspect, it is quite evident that the directions issued by the Hon’ble Division Bench constituting one-man Committee to adjudicate the claim of the petitioner’s husband and other similarly situated persons, till date, has not been adjudicated despite undertaking having been given, while other similarly situated persons, who have already been regularized as against the post, on which they had been working since their initial date of engagement and was allowed minimum time pay-scale *vide* Annexure-2, and the order passed by the Hon’ble Division Bench, in the case of the petitioner’s husband having not been complied till today, obligates the authorities of the State to do complete justice at par with other similarly situated persons.

32. During course of consideration this court came across with a judgment rendered by the Hon’ble Division Bench in the case of ***Ashok Kumar Sharma v. State of Bihar & ors*** ***LPA No. 1690 of 2013*** wherein similar issues had come up for consideration before the Hon’ble Division Bench in which the facts of the said case is similar to the facts of the present case and since the case of the petitioner has been rejected ignoring



the dictum of Hon'ble Division Bench rendered in the aforementioned case; it was imperative upon the state authorities to have acted in consonance with the judgment rendered on the subject in issues but having found failure on the part of the state authorities in adjudicating the issue at hand in terms of the aforementioned judgment, the matter was again placed under the heading "for orders" and the state authority were directed to take instructions with regard to aforementioned Division Bench Judgment and its application in deciding the case of this widow petitioner; but no assistance was provided by them in this regard, while it has not been disputed that the issues dealt in the aforesaid Division Bench Judgment is not similar to the present one.

33. The stand of the State, that there is no judgment which deals with the issues in respect of daily wagers, is wholly misplaced and while making such statements, the State authorities have miserably failed to justify their inaction in not considering the judgment rendered in *Ashok Kumar Sharma (supra)* and therefore, this Court is constrained to pass an order in respect of this petitioner as per the ratio laid down in the aforementioned case, whose case is also squarely covered by the said proposition of law, and the petitioner, who has been



struggling for all these thirty years along with her husband while he was in service and alive and since the claim of the petitioner has already been rejected as is apparent from the impugned order that Mobina Khatoon's Judgment rendered by the Hon'ble Full Bench is not applicable in the case of this petitioner, while recording such findings in respect of this petitioner to reject the claim of the absorption and grant of pension, it seems that the authorities for reasons unexplained did not take note of the Hon'ble Division Bench Judgment, which in the opinion of this Court, is required to be addressed strictly in consonance with the parameters prescribed in the said judgment.

34. The relevant extract of the consideration and observation made in the said judgment rendered in the case of ***Ashok Kumar Sharma (supra)*** are quoted hereinbelow:-

“Having considered the matter, in our view, learned counsel for the appellants is correct. Considering the history of events up to 1990, as noted above, what was considered for regularization was a daily wager having worked for more than 240 days simplicitor, was the earlier State Government decision and which had been extended pursuant to trade union agreement. This was also in



consonance with the resolution of the State Government in the Personnel Department dated 10.05.2005. which is a part of the proceedings itself. This clearly shows that right till the year 2005, State was only contemplating regularization with restriction that the said daily wager must have worked for 240 days. There was a clear distinction maintained when the 2006 resolution was taken. There were two classes. First, where the State Government was bound by the trade union agreement in respect of daily wagers up to 11.12.1990 and second those who came thereafter. Therefore, there were two different categorizations in this resolution dated 16.03.2006. It is wrong to say that there was conflict between the Clause-1 of the said resolution and Clause-3. The two contemplated two different periods. The writ petitioners/appellants, falling within the first period i.e. till 11.12.1990, were rightly treated and regularized as per Annexure-6 to the writ petition with effect from 22.12.2006. This distinction was not brought out clearly before the learned Single Judge because of which the learned Single Judge applied Clause-3 of this resolution, which applied to only those people who had joined as daily



wagers after 11.12.1990.

Having considered the matter, in our view, the impugned order, being Annexure-7 to the writ petition, recalling the regularization order dated 22.12.2006 (Annexure-6 to the writ petition), is set aside. The effect would be that the three writ petitioners/appellants would be deemed to be working duly regularized vide Annexure-6 to the writ petition. As their services are terminated by Annexure-7 dated 02.01.2013 and have not worked since then, upon their reinstatement, they would be deemed as regularized employees but they would not get any back wages. They would be reinstated within two months from today. They would also be entitled to continuity in service.”

35. From the aforesaid judgment rendered by the Hon’ble Division Bench in the case of **Ashok Kumar Sharma & Ors (supra)**, it is quite evident that the State Authorities had been engaging the persons on daily wage basis to carry out the works of the State in different departments. It is admitted position that petitioner’s husband was engaged in the year 1982 and as per the Government’s resolution which is contained in Memo No. 5940 dated 18th June, 1993, the State Government



had taken a conscious decision to regularize the services of daily-wager employees, who were appointed prior to the cut-off date as 01.08.1985 and in the said resolution, it was clearly mentioned that after the cut-off date, non recruitment on daily wage was directed. Petitioner's husband case is covered by the resolution dated 18th June, 1993, which subsequently was extended by considering the demand of Employees Trade Union, and two groups were classified. Since the case of this petitioner falls within the first classified group, wherein all such employees were directed to be considered who had worked for simplicitor 240 days prior to 01.08.1985.

36. From the reasoned order as contained in Memo No. 786 dated 24.05.2020, it is quite evident that the proposal for absorption of this petitioner along with others were sent by the authorities, where the husband of the petitioner was initially engaged, which evidently shows that the deceased employee had been working regularly against the sanctioned post and even proposal for absorption was made but for the reasons stated in the impugned order, it could not be carried out owing to his superannuation on the date of consideration and, therefore, this Court finds that since the petitioner's husband had continuously been in service from the date of initial engagement, which fact has not been denied by



the authorities and accordingly, in the considered opinion of this Court, the case of this petitioner is squarely covered by the Government's resolution dated 16th June, 1993 which was subsequently, modified by classifying a second group through resolution as contained in Resolution No. 639 dated 16.03.2006 and since the case of the petitioner falls within the first category wherein the daily wagers were employed for only 240 days prior to 01.01.1985, their cases were required to have been considered for regularization. While the petitioner's husband has continuously been in service, since the date of his initial engagement, was on a better footing and even his case could have been considered in the second category as well, still for unexplained reasons, the petitioner's husband case was not considered in consonance with the decision taken by the State Government dated 16.03.2006, for effecting the regularization in respect of the daily-wagers and, as such, the stand of the State that regularization cannot be made after superannuation, is a misplaced argument, which does not deserve any consideration and is fit to be rejected out-rightly.

Issues raised for 'Reference to the Larger Bench'

37. Insofar as the issues raised before this Court to



refer the matter to a Larger Bench in view of the order dated 25.07.2025 passed in LPA No. 657 of 2021 is concerned, since this Court has not relied upon any of the judgments forming part of the conflicted issues, therefore, the issues that have been raised before this Court would be decided in appropriate proceeding and the case of this petitioner as per dictum is squarely concerned by the judgment of ***Ashok Kumar Sharma (supra)***, the adjudication of the claim is accordingly, being made to do justice as per the commitment of the State Government notified through Resolution dated 16.03.2006.

38. The State's rejection of the petitioner's claim based on the ground of superannuation is legally untenable, as it ignores the critical distinction drawn by the Hon'ble Division Bench between the two categories of daily-wagers which is established in the case of ***Ashok Kumar Sharma & ors (supra)*** and since the deceased employee, Narendra Prasad Singh, was appointed on 18.10.1982, who belonged to the protected Category 1 (per-11.12.1990), whose right to regularization under Resolution No. 639 dated 16.03.2006 vested upon the completion of 240 days of service, which was passed decades before his retirement on 31.01.2013. The status was, his service was also directed for regularization by the directions of Hon'ble



Justice Mukhopadhaya in CWJC No. 6469 of 1998, which mandated the grant of a pay of minimum time scale of pay, effectively transitioning him from a "pure" daily wager to a temporary employee with a recognized pay scale. Consequently, the State's delay in issuing the formal regularization order until 16.09.2013 constitutes administrative laches and the State cannot benefit from its own inaction, to deny pensionary benefits to an employee, who was fully eligible and "fit to be regularized" in Category-1 long before his superannuation as per the Resolution of the State Government, which has been implemented in the case of similarly situated persons.

39. The judgment rendered by the Hon'ble Division Bench is of the year 2015, which is said to have been passed in LPA No. 1690/2013, and squarely covers the case of the petitioner and the impugned order rejecting the claim of the petitioner has been passed after the said judgment, which has attained the finality and because of ignorance of the Govt. Resolutions issued in this behalf showing their non-application of mind and the authorities being unmindful of the Division Bench Judgment rendered on the subject in issue, the impugned order having been passed coercing the petitioner again to knock



the door of this Court, deserves to be dealt appropriately.

40. In view of the above, this Court is left with no option but to set aside the order impugned dated 17.05.2022 as contained in Memo No. 786 dated 24.05.2022 and considering the longstanding litigation having been fought by the deceased employee and as also this widow-petitioner, in the considered opinion of this Court, finding the case to be similar to that of *Ashok Kumar Sharma (supra)*, it is held that the widow-petitioner is entitled to all pension and pensionary benefits including the family pension after the death of the deceased employee and as such, the petitioner's husband who has served the concerned department of the State Government for more than three decades, the services of the deceased-employee is required to be treated as deemed regularized and the benefits of pension and all other pensionary benefits, which is applicable to the Government employee is required to be paid by calculating the same on the basis of last pay drawn, which deceased-employee continued to draw in the light of the order passed by the Co-ordinate Bench, till the date of his retirement. Accordingly, the authorities are directed to calculate pension from 01.02.2013 till the death of the deceased-employee on 30.04.2021 and thereafter, the family pensions are appropriately, required to be calculated till the date of actual payment and further continuance of family pension would be granted as per the applicable law with appropriate revision of pension, within a period of six weeks from the date of receipt/production of a copy of this order.

41. Besides the above, this Court in order to get the



issues resolved at the level of the authorities in the light of the Resolutions dated 16.03.2006, issued by the State Government for regularizing the services of the Daily-wagers, which issues have already been considered by the Hon'ble Division Bench in the case of *Ashok Kumar Sharma (supra)* and further taking cue from the said judgment, a Co-ordinate Bench has also been pleased to direct for regularization in the case of *Anil Kumar Sharma & Ors v. State of Bihar & Ors (CWJC No. 1989 of 2023)*, sought their indulgence but the State authorities did not show any inclination to resolve the issues as per the dictum of the Hon'ble Division Bench rendered in the case of *Ashok Kumar Sharma (supra)* and did not submit any response, instead they insisted for deciding the issues on the basis of submissions/pleadings made on their behalf, while the similarity, which appeared on record, having well been noticed by them, no effort was taken at their end to reconsider the issues rather their insistence for continuance of litigation, surely has persuaded the mind of this Court that the litigation policy, which the authorities have framed to resolve the identical issues in consonance with the settled law, are deliberately being ignored for the reasons best known to them.

42. Accordingly, this Court taking into account the



callous approach of the authority in dealing with the issues at hand and further noticing their non-application of mind towards the purpose of framing the litigation policy by the State and deliberately having chosen to continue with the litigation outside its scope, has objectively persuaded this Court to award cost of litigation to the tune of Rs. 50,000/- (Fifty thousand) in favour of this widow petitioner, which shall be paid by the State for not adhering to the policy having been put in place at their end to minimize the litigation. The amount so directed towards litigation cost shall be paid within the time framed above.

43. The writ petition stands allowed.

(Ajit Kumar, J)

Md. Perwez Alam

AFR/NAFR	AFR
CAV DATE	13.02.2026
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