

(2002) 08 PAT CK 0079
In the Patna High Court
Case No : L.P.A. No. 891 of 2002

Most. Reshma Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-08-2002

Acts Referred:

Citation : (2002) 4 PLJR 89

Hon'ble Judges : Ravi S. Dhavan, C.J;R.N. Prasad, J

Bench : Division Bench

Advocate : Uma Shankar Singh, No. 2, for the Appellant;

Final Decision : Dismissed

Judgement

1. This Letters Patent Appeal has been filed against the order dated 15 July, 2002 in C.W.J.C. No. 13322 of 2002: Mostt. Reshma Devi v. The State of Bihar and Ors.
2. The submissions in the appeal are best summed up in the submissions made by learned Counsel on behalf of the Appellant that if the learned Judge deciding the writ petition did not have any facts before him then there was no question on the applicability of the decision which has been cited in the order.
3. There could not be any other order than which was passed on the writ Petition. In fact, the Petitioner got more than what was claimed as she has been given a latitude to file a representation. On this aspect the Court will refrain comment lest the relief provided also may be diluted.
4. The issue in the writ petition was whether the Petitioner could claim family pension. Clearly, her husband died in 1973. A petition was being filed before the High Court after 28 years.
5. The Petitioner has given no details in her petition so that the Court could consider whether her husband was entitled to pension and consequently she may be entitled to family pension. The Petitioner does mention that her husband had been employed as a Headmaster at one Lakhichand High School, Rewa, district

Muzaffarpur. The Petitioner does not mention whether this institution was a Government institution so that her husband may have been entitled to pension or that she may be entitled to a family pension.

6. The State in the counter affidavit has replied, to the effect, that the Petitioner's husband was employed in a private institution. In the circumstances, there is a clear disputed question of fact whether the Petitioner's husband was a Government employee or not, or a person entitled to pension.

7. In so far as the writ petition is concerned, the person who seeks relief is doing so against arbitrary State action. The Petitioner-Appellant has laid no foundations in her writ petition, notwithstanding that she filed a petition after 28 years, that her husband as of right being a person entitled to pension consequently she would be entitled to family pension also. No facts are available on record.

8. The Court does not find any error in the order of the learned Judge declining to interfere in the writ petition.

9. Dismissed.