
(1999) 07 PAT CK 0082
In the Patna High Court
Case No : C.W.J.C. No. 5053 of 1998

Ranju Devi

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 28-07-1999

Acts Referred:

Citation : (1999) 3 PLJR 504

Hon'ble Judges : R.M. Prasad, J

Bench : Single Bench

Advocate : Abhay Shankar Singh, for the Appellant; A.B. Sinha, P.K. Rajgrihar and R.R. Sinha, for the Respondent

Final Decision : Allowed

Judgement

R.M. Prasad, J.—In this application, the Petitioner, who is the widow of Late Rajiv Ranjan Singh, has sought for a direction to the Respondents to pay her family pension, group insurance amount and a sum of Rs. 3,000/- as ex-gratia payment on account of the death of her husband.

2. The husband of the Petitioner was initially appointed as Khalasi by the Superintending Engineer, Mechanical Circle, Road Construction Department, Darbhanga for three months, vide order dated 25.7.1996, contained in Annexure - 1.

3. The case of the Petitioner is that the service of the husband of the Petitioner was regularised, vide order contained in memo No. 602 dated 31.10.1996 (Annexure-3). The husband of the Petitioner, however, died on 3.1.1997. According to her, her husband was very much in service of the State Government at the time of his death.

4. A counter affidavit has been, filed on behalf of the Chief Engineer, Mechanical Wing, the Superintending Engineer, Mechanical Circle and the Executive Engineer, Mechanical Division of the Road Construction Department (Respondents Nos. 2 to 4 respectively). In the said counter affidavit it is stated that the husband of the

Petitioner was appointed vide letter dated 25.7.1996 (Annexure -1) and that he joined on 10.8.1996 at Khagana Division. Later, he joined at Mechanical Subdivision, Purnea on 10.9.1996. In paragraph 6 it is stated that the service of the Petitioner's husband was extended regularising his service vide Superintending Engineer (Mechanical), Mechanical Circle, Darbhanga Memo No. 602 dated 31.10.96. According to the Respondents, the Petitioner's husband did his duty till 7.10.1996 and thereafter absented himself till his death. It is, thus, submitted that the Petitioner's husband remained on duty at Purnea from 10.9.1996 to 7.10.1996 and the extension of his service was done after his death. However, in paragraph 9 of the said counter affidavit it is stated that the appointment of the Petitioner's husband was made on unsanctioned post and without observing the procedure. It is, thus, submitted on behalf of the Respondents that the appointment of the husband of the Petitioner being irregular and illegal, the Petitioner will not be entitled for the reliefs prayed for in the writ petition.

5. This Court fails to appreciate the said submission of the learned Counsel for the State. It is not the case of the Respondents that the appointment of the Petitioner's husband was ever terminated and/or cancelled on account of the alleged irregularity and/or illegality. No such order has been brought on the record by the Respondents. It may be true that the husband of the Petitioner absented after 7.10.1996 but so long his service was not terminated, he continued to be in Government service.

6. It is not disputed that as per the amended provisions relating to payment of family pension, the requirement of minimum one year service prescribed in the Finance Department's Memo No. Pen-103/64-9505 dated 3.9.1964 was done away with by the State Government and it was decided that the person will be entitled to family pension in case of death of a Government employee who was examined by the doctor at the time of his initial appointment. From the order, contained in Annexure - 1 it appears that the joining of the Petitioner's husband was to be accepted after production of medical Certificate from the Civil Assistant Surgeon. It is not the case of the Respondents that the Petitioner's husband was not examined by the doctor before his joining. It is submitted on behalf of the Petitioner that the medical certificate was submitted by the Petitioner which is already on record in the file of the Petitioner's husband maintained in the department.

7. Under such circumstances, in my opinion, the Petitioner cannot be denied of the benefit of family pension.

8. With respect to Group Insurance, the Finance Department's Resolution No. 4185 dated 13th July, 1985 provides that for Class IV employees deductions are to be made at the rate prescribed therein and on the death of the employee concerned, his family will be entitled for the insurance amount of Rs. 50,000/ -. It is admitted by the Respondents that deductions towards group insurance were made by the husband of the Petitioner before his death.

9. Under such circumstances, in my opinion, the Petitioner cannot be denied of the group insurance amount as well

10. As regards the ex-gratia, learned Counsel for the Petitioner has referred to the provisions contained in the Bihar Pension Rules which provides that in case Of death of a Government servant while in service his family will be entitled for a sum of Rs. 3,000/ - as ex-gratia payment and the same is not deductible from any other benefits which a person will be entitled after the death of a Government servant.

11. Under such circumstances, this writ petition is allowed. The Respondents are directed to release the family pension, group insurance amount and the amount of Rs. 3,000/ - as ex-gratia payment to the Petitioner within two weeks of the receipt/production of a copy of this order.

12. As prayed on behalf of the State, let a copy of this order be supplied to the learned Standing Counsel No. X.