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Court : Patna

Decided On : Aug-27-2003

Judge : R.S. Dhavn, C.J. and P.N. Yadav, J.

Appeal No. : L.P.A. No. 762 of 2003

Appellant : Janki Devi @ Janki Devi

Respondent : State of Bihar and ors.

Disposition : Appeal dismissed

Judgement :

1. It is an unfortunate that this matter of pension has generated four cases. On facts, as are noticed by the learned Judge on the writ petition, there is no issue. Whatever may have been the gaps in the service earlier and whatever may have been the reason for the petitioner's husband not being in service, whether abandoning service, terminated or dismissed, the fact of the matter is that he was reappointed and remained in service for two years until he retired in 1982. The aspect that the petitioner's husband retired in 1982 is not on record of the order. The petitioner's widow filed a petition almost after 20 years. This was C WJC No. 7863 of 2001. This writ petition was dismissed and against the order of dismissal a letters patent appeal was filed. The letters patent appeal was withdrawn as desired by the petitioner-appellant that he would like to file a representation.

2. The contention of the petitioner-appellant was negated by the State Counsel as her husband was held to be not entitled to any pensionary benefits; the question of giving her family pension, thus, did not arise. A third case was generated i.e., CWJC No. 3657 of 2002. The learned Judge again certified the record that the petitioner's husband was not entitled to pension and the question of granting her family pension does not arise.

3. Undaunted the petitioner-appellant now was advised to file the present letters patent appeal.

4. The petitioner's husband did not chase his claim for a pension. Indeed, he could not because his service was only two years and that also temporary. Two years temporary service does not entitle one to any pension. Fifteen years after his death, the widow was advised to file a case. Four cases have been generated with no result.

5. Tearing the context out of Government orders for out of context use and asking the High Court to pass a mandamus that a family pension be granted, is virtually asking the High Court to make an error.

6. The Court cannot help placing on record that poor people should not be given a hope that their pension or family pension will be arranged when the law does not permit it.

7. When the Government employee was not entitled to pension where is question of granting family pension to his wife. The basic question in the present case is that service of the petitioner's husband was only 2 years. After the petitioner's husband had died it will not be appropriate for the High Court to open up old records and ask why he left the job?

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