

State of Bihar and ors. Vs. Smt. Shiv Rani Devi and ors.

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Court : Patna

Decided On : Jan-12-1998

Judge : B.M. Lal, C.J. and S.K. Singh, J.

Appeal No. : L.P.A. No. 439 of 1997

Appellant : State of Bihar and ors.

Respondent : Smt. Shiv Rani Devi and ors.

Disposition : Appeal Dismissed

Judgement :

1. This appeal is directed against an order dated 20th March, 1997, whereby the writ petition was allowed directing the Respondents to fix the post retirement benefit of the petitioner-respondent in accordance with the provisions of Rule 136 read with Rule 151 of the Bihar Pension Rules, which defines the term of emoluments.

2. The short fact leading to this L.P.A. is that the respondent-petitioner is the widow of the deceased Government servant, who superannuated from the service. While working on deputation in the Housing Board, he earned promotion according to the Rules and accordingly on the basis of last pay drawn by him, the pension was fixed.

3. It is contended that the petitioner-respondent's husband was on deputation and if he had earned any promotion, the parent department was not binding and therefore, he is not entitled to draw his pension on the basis of last pay drawn by him. The submission has no force.

4. It is not that the petitioner/respondent's husband has earned his promotion by playing fraud upon the parent department or on deputation Department but considering the other aspect, i.e., length of service, he was promoted.

5. Thus, the last pay drawn by him would be the basis according to the Rules referred to above and rightly the learned single judge has allowed the petitioner directing that the husband of the respondent is entitled to get pension on the basis of the last pay drawn by him.

6. This appeal has no merit and it is, accordingly, dismissed.

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