

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.709 of 2018

In

Civil Writ Jurisdiction Case No.2518 of 2015

-
-
1. Smt. Priyanka daughter of late Prem Kumar resident of Mohalla Brahman Toli, Purani Bazar, Police Station Town, District - Muzaffarpur.
 2. Hrithik Roy @ Hrithik Raj son of late Prem Kumar resident of Mohalla Brahman Toli, Purani Bazar, Police Station Town, District - Muzaffarpur.
 3. Mohini Kumari daughter of late Prem Kumar resident of Mohalla Brahman Toli, Purani Bazar, Police Station Town, District - Muzaffarpur.
 4. Megha Kumari daughter of late Prem Kumar resident of Mohalla Brahman Toli, Purani Bazar, Police Station Town, District - Muzaffarpur.

... Petitioners ... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Old Secretariat, Patna
3. Divisional Commissioner, Muzaffarpur.
4. The Collector-cum-District Magistrate, Muzaffarpur.
5. The Assistant Collector, Muzaffarpur.
6. The Establishment Deputy Collector, Muzaffarpur.
7. The Circle Officer, Musahari Anchal, District - Muzaffarpur.

... Respondents ... Respondent/s

Appearance :

For the Appellant/s : Mrs. Mahasweta Chatterjee, Advocate
For the Respondent/s : Mr. Majid Mahboob Khan, A.C. to AAG 12

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 29-01-2021

Heard learned counsel for the appellant and learned



counsel for the State.

This LPA under Clause 10 of Letters Patent Appeal has been preferred for partly setting aside the judgment and order dated 20.04.2018 passed in C.W.J.C. No. 2518 of 2015 passed by a learned Single Judge of this Hon'ble Court by which direction has been issued to treat deceased employee to be in service till 8.12.2014, i.e., the date of order passed by the appellate authority.

Briefly stated the facts of the case is that deceased employee was appointed as Revenue Karmachari in the year 1993 and while in service was put under suspension by order dated 10.01.2012 passed by the Collector in anticipation of departmental proceeding. Subsequently, charges were framed and department proceeding was initiated and by order dated 30.06.2014 passed by the District Magistrate, he was removed from service.

Aggrieved by order dated 30.06.2014 of removal from service, deceased employee preferred an appeal before the Divisional Commissioner, Muzaffarpur, and he modified the order of punishment from removal of service to that of compulsory retirement.

Petitioner preferred writ petition being CWJC No.2518



of 2015 against the order passed by the disciplinary authority as well as appellant authority. However, it appears that during pendency of writ petition, original petitioner died and he was substituted by his legal heirs, who are the appellants.

After hearing the parties, the writ petition was allowed and both the orders passed by disciplinary authority as well as appellate authority were set aside. However, learned Single Judge found that legal heirs of deceased employee would be entitled to all consequential benefits treating their deceased father to be in service till 08.12.2014, i.e. the date of order passed by the appellate authority.

It is submitted on behalf of counsel for the appellants that once learned Single Judge has set aside both the orders of disciplinary authority as well as appellate authority, the deceased employee ought to have been treated to be in service till date of his death on 27.10.2016 before attaining the age of superannuation.

After hearing learned counsel for the appellants as well as learned counsel for the State, the order passed by the Single Judge is modified to the extent that legal heirs of deceased employee would be entitled to all consequential benefits treating their deceased father to be notionally in service



from the date of removal from service, i.e., 30.06.2014 till his date of death on 27.10.2016 and pre and post retiral dues to be calculated accordingly.

The LPA is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.01.2021
Transmission Date	NA

