

(2021) 01 PAT CK 0242

Patna High Court

Case No: Letters Patent Appeal No. 709 Of 2018, Civil Writ Jurisdiction Case No. 2518 Of 2015

Priyanka And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Jan. 29, 2021

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Mahasweta Chatterjee, Majid Mahboob Khan

Final Decision: Dismissed

Judgement

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.