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SLP(C)No. 1681 OF 2001
ITEM No.01

Court No. 8

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.1681/2001

(From the judgement and order dated 26/07/2000 in LPA 1017/00
of The HIGH COURT OF PATNA)

ZAHIDA KHATOON

Petitioner (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent (s)

(For Final Disposal)

Date : 03/12/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s)

Mr. Irshad Ahmad,Adv.
Mr. S.A. Khan,adv.

For Respondent (s)

Mrs. Sunita R.Singh,Adv.
Mr. B.B. Singh,Adv.

Mrs. Shashi Kiran B.,Adv.
Ms. Deepti,Adv.
Mrs Anil Katiyar,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeal is allowed in terms of the signed order.

(Sarojbala)
PA to Addl.Registrar

(Kanwal Singh)
Court Master
(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.9509 OF 2003
(Arising out of SLP(C) No. 1681/2001)

Zahida Khatoon Appellant(s)

Vs.
State of Bihar & Ors. Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for both the parties.

It appears that some disciplinary proceedings were started against the late husband of the appellant who happened to be in government service. On conclusion of the inquiry, an order

r of punishment was passed which included stoppage of revision of pay scale with immediate effect, the amount of purchase was to be withdrawn from the salary of the husband of the appellant and no payment except that of subsistence allowance was to be paid during the period he remained under suspension. The husband of the appellant challenged the order before the High Court. During the pendency of the writ petition, however, he died and was substituted by his Lrs. The

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High Court, however, took the view that since the husband of the appellant who was in employment of the government had died, no cause of action survived any more as regards his heirs; the wife could not contend about the misdemeanour of the deceased husband of the appellant.

We feel that the order passed by the High Court is not sustainable as the punishment in the departmental enquiry against the late husband of the appellant involves financial implications, it would adversely affect the widow of the late appellant monetarily. Hence, she would certainly be entitled to contend that the order of punishment passed against her late husband was illegal and invalid and the monetary curtailments of amount due to her husband may be paid to her.

In view of what has been indicated above we allow the appeal, set aside the order passed by the High Court and remand the matter to the High Court to be decided on merits afresh..

No costs.

.....J.
(BRIJESH KUMAR)

.....J.
(ARUN KUMAR)

NEW DELHI
DECEMBER 3, 2003.