

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1523 of 2014

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Smt. Mahima Devi W/O Late Ram Charitra Prasad Resident of R.N.A.R. College
Road, Sri Krishna Puri West, P.S. - Samastipur, P.O. - Samastipur, District –
Samastipur.

.... Petitioner/s

Versus

1. The B.R.A. Bihar University, Muzaffarpur through the Registrar of the University.
2. The Vice-Chancellor, The B.R.A. Bihar University, Muzaffarpur.
3. The Registrar, The B.R.A. Bihar University, Muzaffarpur.
4. The State of Bihar through the Principal Secretary, HRD Deptt. Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raghav Prasad No. 1, Advocate.
For the University	:	Mr. Dhruva Mukherjee, Sr. Advocate.
For the State	:	Mr. Syed Arshad Alam, S.C. 3.
		Mr. Mahtab Alam, A.C. to S.C. 3.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 10-12-2015

Heard learned counsel for the parties.

The petitioner has moved the Court seeking a direction to pay her family pension under the 'Triple Benefit Scheme'.

The relevant facts are that the husband of the petitioner retired from the post of Peon on 31.03.2000 and later on passed away on 01.01.2008. During the service period, the employee had opted for C.P.F. Scheme and not the Pension Scheme but after his superannuation, the University itself in the year 2003 came out with a notification giving opportunity to the employees to change their option. It appears that the employee

made a representation to the University on 17.09.2003 asking for pension and gratuity. However, nothing has been brought on record to show that he had ever applied for the benefit under the Triple Benefit Scheme of Retirement Benefit Statute, 1982 pursuant to the notification of the University dated 07.06.2003. Thereafter, upon his death, the widow has moved the Court in the year 2014.

Learned counsel for the respondents have raised a preliminary objection and submit that the cause of action having arisen in the year 2003 and thereafter the employee himself having been alive for the next five years and not approaching the Court and even after his death, the widow moving after six years, there is delay and laches on the part of the petitioner and the Court may not interfere in the matter.

Learned counsel for the State has also referred to an order passed by a co-ordinate Bench in C.W.J.C. No. 25762 of 2013 which was dismissed by order dated 23.01.2015 on the ground of delay and laches of 11 years. It is submitted that the said writ petitioner was similarly situated to the petitioner of the present writ.

Learned counsel for the University has also drawn the attention of the Court to the so called representation of the husband of the petitioner dated 17.09.2003 which goes to show that no formal application was ever made for change of option from C.P.F. to the Triple Benefit Scheme by the concerned

employee and thus according to him, it cannot be construed to be an application pursuant to the indulgence shown by the University of giving a second chance of changing the option.

Having considered the rival contentions, the Court is inclined to agree with the submissions of learned counsel for the respondents.

Accordingly, the writ petition stands dismissed on the ground of delay and laches as well as on merits.

(Ahsanuddin Amanullah, J.)

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