

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8377 of 2015

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Most. Kamala Devi, wife of late Ram Nath Singh, resident of Village-
Belwain, P.S.- Korari, District- Rohtas.

.... Petitioner/s

Versus

1. The Chairman Cum Managing Director, Bihar State Power Holding Company Limited, Vidyut Bhawan, Patna.
2. The General Manager-cum-Chief Engineer, Magadh Electric Supply Area, Gaya.
3. The Electrical Executive Engineer, Electric Supply Division, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Dass, Advocate.

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate.

Mr. Vijay Kumar Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 23-06-2015

The prayer of the petitioner in this writ application

reads as follows:

"1.(i) To sanction/grant three A.C.P. to the husband of the petitioner as he worked at the same post for a long period and ultimately superannuated on 31.08.2009 and died.

(ii) To sanction/release/pay all the consequential benefit to the petitioner after granting the A.C.P. to the husband of the petitioner."

2. Learned counsel for the petitioner submits that the husband of the petitioner was initially appointed as unskilled Khalasi on 15.08.1972 and thereafter he was promoted on the post of Switch Board Operator-II on 18.04.1974 as well as he was given another promotion to the post of Switch Board Operator-I on 21.03.1977 and he had continued in service till 31.08.2009

when he had retired from service and since, he was not given the benefit of A.C.P. during 32 years of his service as a Switch Board Operator-I, he would be entitled to be given the benefits of three A.C.P.

3. This Court would find the present claim of the petitioner to be wholly a stale claim. The husband of the petitioner first of all being an employee of the then Bihar State Electricity Board (hereinafter referred to as 'the Board') and if denied such benefit of A.C.P. while he was continuing in service till August 2009 had a reason to claim it during which he was an employee of the Board. He however did not claim it and had retired peacefully as well as got his all retirement benefit.

4. After six years of his retirement it is his widow, the petitioner who now comes out to claim promotion of her husband. This however cannot be allowed for a simple reason that it is out and out a stale claim and specially the wife of the employee will have no right to claim promotion if the employee himself did not claim such promotion.

5. From reading of the solitary representation which was allegedly filed by the petitioner in the month of January 2015 raising for the first time an issue of promotion of her late husband, it also becomes very clear that the benefit of A.C.P. is being

claimed before this Court contrary to the actual claim of regular promotion in the representation.

6. Let it be noted that the benefit of A.C.P. was not available in 1977 or thereafter. In the Board at that point of time there was only a provision for Time bound Promotion at the end of 12 years of service and 24 years of service, if the employee had not earned regular promotion. The husband of the petitioner, in fact, had earned two regular promotions, as has been noted above and, therefore, he was not entitled for any Time bound Promotion and that is why the husband of the petitioner had never claimed such promotion. The widow/petitioner, however, either on her own or having been advised by someone, has become wiser to claim promotion of her husband. That however cannot be allowed by both being contrary to the public policy of raising a stale claim as also contrary to the rules of the Board.

7. Thus, for the reasons stated above, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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