

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 159 of 2012

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Smt. Shakuntala Sharma W/o Late Ramadhar Sharma Resident of Mohalla -
Aghoria Bazar Chowk, Professor Colony, P.S. - Kazi Mohammadpur, District-
Muzaffarpur.

.... Petitioner/s

Versus

1. The B.R.A. Bihar University, Muzaffarpur, through the Registrar of the University, Muzaffarpur.
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. Surendra Kishore Thakur, Advocate Ms. Y. Madhavi, Advocate
For the BRA	:	Mr. Purhkar Narain Shahi, Sr. Advocate. Mr. Santosh Kumar Jha, Advocate.
For the State	:	Mr. P. N. Sharma, A.C to A.G.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-12-2015

Heard learned counsel for the parties.

The petitioner has prayed for grant of family pension on account of being widow of the deceased Ramadhar Sharma, who died in harness while working as a Reader in the Department of Hindi in R.D.S. College, Muzaffarpur under the B.R.A. Bihar University, Muzaffarpur.

Learned counsel for the petitioner submits that though her husband died in harness in the year 1989 but family pension was never granted to her. She submits that in view of the notification of the University dated 7th June, 2003 allowing option by the employees to take benefit under Group-A, which was the Pension Scheme, the case of the late husband of the petitioner also has to be considered for pension/family pension and



accordingly, the respondents be directed to pay her family pension. It is submitted that when the University withdrew the option given to the employees to come under the Pension Scheme, the same was challenged before the Court where it was held that since the University not having come up with the notification within the stipulated time, it would be deemed that all employees had automatically opted for the Pension Scheme that is, Group-A and the matter has been finally settled till the level of the Hon'ble Supreme Court in favour of the employees and against the University.

Learned counsel for the University submits that though the matter may have been settled by the Supreme Court but the cause of action to the petitioner arose firstly in the year 2003 with the notification of the University and thereafter by withdrawal of such order in December, 2003 itself, but she never chose to approach the Court and even if it is taken for the sake of argument that she waited till the decision of the Court, the matter having been decided on 22.10.2006 and there being no stay against such order in favour of the employees, still she has filed the present case only in the year 2011. It is further submitted that even ultimately the Supreme Court has not interfered in the matter in the year 2009 and thereafter also there is no explanation of having waited for more than three years before moving the Court. Learned counsel submits that in service matters time being of the essence, parties waiting and watching for a long time are not entitled to any relief on the principle of acquiescence. It is

further submitted that the husband of the petitioner having died in the year 1989 i.e., more than 26 years back, if such matters are interfered at this stage, it will unsettle the settled issues and also give rise to litigation which would not be in public interest as it will entail payment of heavy amount to the parties concerned from the public exchequer which is already overburdened.

Having considered the rival submissions, the Court is in agreement with the contentions of learned counsel appearing for the University and accordingly is of the opinion that no relief can be granted to the petitioner on the ground of delay and laches.

For the reasons aforesaid, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

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