

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1708 of 2011

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Umme Rumi W/O Syed Shaukat Ali, resident of Mohammad Ali Manzil, Pirbahore (in front of Science College), P.O. Mahendru, P.S. Pirbahore, District- Patna.

.... Petitioner/s

Versus

1. The Bihar Public Service Commission through its Chairman, Bailey Road, Patna.
2. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
3. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
4. The Director, Provident Fund Directorate, Finance Department, Pant Bhawan, Patna.
5. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Fakruddin Ali Ahmad Mrs. Anjum Perveen
For BPSC	:	Mr. P.N. Sahahi, Sr. Advocate Mr. Ratnesh Kumar Singh
For Accountant General, Bihar, Patna	:	Mr. Ranjan Kumar
For the State	:	Mr. A.N. Sinha, G.P. XI Mr. Jayprakash Sharma, A.C. to G.P. XI

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

13 27-01-2015 Heard learned counsel for the parties.

The matter was heard at length on 23rd January, 2015 and has also been heard today.

A rejoinder to the counter affidavit has been filed on behalf of the petitioner today.

It appears that now the point of difference between the petitioner and the respondents is that because the service of the

late husband of the petitioner was ad-hoc prior to 16.10.2003, the same cannot be counted for pensionary benefits though on the other hand the claim of the petitioner is for counting the service from 15.06.1974.

From the materials on record specially relating to one Jagdish Chandra Singh and Chandrma Prasad it appears that the respondents have given them post retrieval benefits on the basis of their service right from 1974 even though their terms of appointment and procedure followed was the same as compared to the late husband of the petitioner. The difference tried to be pointed out by the respondents in the counter affidavit specially in terms of Annexure M/31 dated 24.08.1973 that Jagdish Chandra Singh was appointed pursuant to Limited Examination whereas the petitioner was not seems to be untenable. It is obvious that only eight persons were appointed pursuant to the result of Limited Examination in a particular pay scale and Jagdish Chandra Singh was not amongst them and the rest of the order deals with five other categories which appears to be adjustment of various other persons including Jagdish Chandra Singh who was appointed on the lower pay scale and was not in the list of persons who were appointed on the basis of Limited Examination whereas with regard as to the petitioner he was also appointed pursuant to



a written examination. Even with regard to Chandrama Prasad, it appears that he was also appointed along with the late husband of the petitioner and in his case also the respondents have given post retrieval benefits computing his service from 1974 itself. Even in view of the provisions of Bihar Service Code especially Rules 58, 59, 61 and 63, together with explanation given therein, as the late husband of the petitioner worked on existing posts without any break right from 15.06.1974, this Court has no hesitation to hold that for computing his service for the purposes of post retrieval dues, the same has to be done from 15.06.1974, moreso, as similarly situated persons have been given the said benefit. In this connection, learned counsel for the petitioner has rightly placed reliance upon the decisions of this Court in the case of **Upendra Prasad v. The State of Bihar** reported in **1995(2) PLJR 822** particularly paragraph 14 which has since been affirmed by the Hon'ble Supreme Court as well as **Rajendra Lal Das v. State of Bihar** reported in **2003(2) PLJR 504**.

Accordingly, the respondents are required to compute the period of service from 15.06.1974 for the purposes of pensionary/post retrieval benefits due to late husband of the petitioner.

Learned counsel for the respondents submits that they

shall do the necessary re-calculation within four weeks from the date of receipt/production of a copy of this order before respondent no.3 and whatever consequential orders are required to be passed, shall be passed within the said period. Further required payment to be made to the petitioner shall be so done within three weeks thereafter.

The writ application stands disposed off in the aforementioned terms.

The respondents shall be obliged to consider all consequential benefits in terms of the present order including grant of ACP to the late husband of the petitioner, if permissible and applicable in the case, as per government scheme, copy of which has been made Annexure 10 to the writ application.

(Ahsanuddin Amanullah, J)

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