

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22255 of 2011

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Mostt. Malti Sinha W/O Late Kailash Prasad Sinha resident of Kothi Block,
in front of District Board, Dumra, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Govt. of Bihar, Department of Finance, Old Secretariat, Patna
2. The Registrar General, Patna High Court, Patna
3. The Registrar, Civil Court, Sitamarhi
4. The Accountant General, Bihar, Birchand Patel Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the High Court : Mr. Mrigank Kumar Mauli

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date: 10-12-2015

Heard learned counsel for the parties.

It appears that the petitioner has been paid almost all the dues which were required to be paid towards death-cum-retiral benefits of her late husband and even authority for revised pension and gratuity have been issued on 27.01.2015. The only grievance of the petitioner which is still left is with regard to grant of first and second A.C.P. to her late husband. As per the stand of the respondents, the late husband of the petitioner never cleared the departmental examination required for consideration of grant of first and second A.C.P. and thus the same have been denied though he has been granted M.A.C.P. as per the M.A.C.P. Rules, 2010.



Learned counsel for the petitioner submits that her husband was granted promotion to the post of Clerk in the year 2008 and thereafter superannuated in the year 2009 and admittedly no departmental examination was held during the said period and thus there could not have been any occasion to clear such examination.

Learned counsel for the respondents submits that even for exemption from passing of departmental examination, a formal application has to be made by the concerned employee if he has attained the age of 50 years and the same can also be granted by the authority in the event that either no departmental examination is held or he has not got opportunity to appear in two such departmental examinations. In the present case, it is submitted that the petitioner's husband never applied for exemption and he being in the grade of Clerk was obviously aware of the Rules and thus, at this stage, such relief cannot be claimed.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, this Court does not find any merit in the contention of the learned counsel for the petitioner that her late husband is entitled to first and second A.C.P. for the reason that he had not passed the departmental examination and had also not applied for seeking any exemption

though being alive for almost a years after his superannuation but neither chose to make any application seeking exemption during his service period nor moved the Court. The attention of the Court has further been drawn to order dated 11.03.2014 passed by a Co-ordinate Bench in C.W.J.C.No.20676 of 2012 where a similar issue has been decided by the Court holding that without passing the departmental examination the employee was not entitled to grant of first and second A.C.P.

Accordingly, the Court finds no ground to direct for payment of first and second A.C.P. to the late husband of the petitioner and accordingly the writ petition stands disposed off.

(Ahsanuddin Amanullah, J)

B.Kr./-

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