

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4739 of 2008

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Prabha Devi, wife of late Deep Narain Singh, resident of Hanuman Path,
Tilkamanjhi P.O.- Tilkamanjhi District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Road Construction Department, Bihar, Patna.
3. The Joint Secretary, Road Construction Department, Bihar, Patna.
4. Superintending Engineer, Building Circle, Building Construction Department, Bhagalpur.
5. Executive Engineer, Building Division, Building Construction Department, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek, Advocate.

For the State : Mr. P.K.Verma, AAG-5.

Mr. Mankeshwar Tiwari, AC to AAG-5.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 21-07-2015 Heard learned counsel for the parties as with regard to
the following relief prayed in this writ application:-

"(A) For issuance of an appropriate writ/ writs/ order/
orders/ direction/ directions commanding the
respondents concerned to grant time bound promotion
to the deceased employee (i.e. Junior Selection Grade
and Senior Selection Grade) and all other promotions
to which he was entitled under the Government
Circulars (Supertine Scale and Assured Career
Progression and revised upto date pay scale) and also
to pay all consequential benefits after promotions and

revision of pay scale including the arrears of differed salary alongwith penal interest at the rate of 18% per annum with effect from the due date of payment to till the date of payment." .

2. It is really curious to note that the husband of the petitioner was an employee of the State Government and had entered into the service on a temporary post of Sub-Overseer in the year 1964 and had continued in service up to the year 2000 when he had retired holding the post of Junior Engineer. The husband of the petitioner is also said to have died in the year 2003 and after five years of the death and after eight years of the retirement of the husband of the petitioner, it had been realized by the petitioner that her husband was not given any promotion and as such he would be entitled for benefit of Time bound Promotion.

3. It is therefore clear that the widow petitioner has raised a wholly state claim after more than 15 to 35 years of cause of action, making this writ application liable to dismissed on the ground of delay and laches alone.

4. This Court, having regard to the stand taken by the respondents in the counter affidavit that the husband of the petitioner firstly, had not raised this issue in his lifetime till 2003 and secondly, that he was also no entitled to such Time bound



Promotion on account of his being promoted in the higher pay scale from the post of Sub- Overseer to Overseer in 1965 again from the post of Overseer to the post of Junior Engineer in 1990 would find that the husband of the petitioner, in terms of the Time Bound Promotion Scheme dated 30.12.1981 which remained in force till 31.12.1995 was not even entitled for his Time bound Promotion inasmuch as he had already been granted benefit of higher pay scale of the post of Overseer in 1965 and again of the post of Junior Engineer in 1990. Thus when the husband of the petitioner had already been granted and paid higher pay scale of the post of Overseer and Junior Engineer in his active service there would be no occasion to also grant him the benefit of time bound promotion.

5. As with regard to claim of A.C.P. for the husband of petitioner the same is not found admissible in view of paragraph no. 8 of the counter affidavit which reads as follows:-

"That in reply with regard to the ground formulated at Paragraph no. 2(i), (ii) it is humbly submitted that for the first time, the time bound scheme was implemented in the year 1981 but the deceased employee never claimed for the same in due course of service period or even if in his life time and now about after 27 years the writ petitioner is claiming which is unjustifiable claim. So for as the benefit of A.C.P. is concerned it is not

applicable to the husband of writ petitioner as Bihar State Employees Condition of Service (Assured Career Progression Scheme) Rule 2003 came into existence in the year 2003 and the husband of the writ petitioner had already been retired in the year of 2000, Needlen to say, for counting of service were from 9.08.1999."

6. As a matter of fact, the respondents have also clarified that whatever enhanced salary was found payable to the husband of the petitioner, has also been paid to the petitioner on 12.01.2009 i.e. during the pendency of this writ application and the petitioner has been paid 4,48,620.00 towards difference of arrears of salary and that should make the petitioner satisfied.

7. In view of the above, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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