

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1686 of 2010

IN

Civil Writ Jurisdiction Case No. 5748 of 2004

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Pramila Devi W/O Late Ramdhani Choudhary R/O Vill. And Post-
Noawan, P.S.- Asthawan, Distt.- Nalanda

.... Appellant

Versus

1. The State of Bihar
2. The Agriculture Production Commissioner, Department of
Agriculture, Bihar, Patna
3. The Additional Secretary Department of Agriculture, Bihar, Patna
4. The Director, Agriculture Department of Agriculture, Patna
5. The Joint Director of Agriculture Darbhanga, Range, Darbhanga
6. The Accountant General, Bihar, Patna
7. The Chairman Bihar Public Service Commission, Patna

.... Respondents

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Appearance :

For the Appellant	:	Mr. Murari Narain Choudhary, Advocate Mr. Mohit Shrivastava, Advocate
For the State	:	Mr. S. Arshad Alam, SC-3 Mr. Fakhruddin Ali Ahmad, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

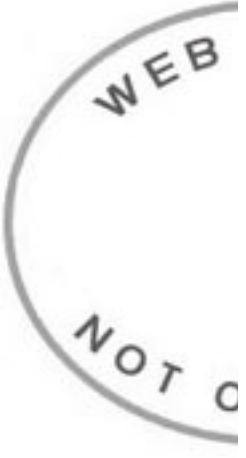
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-04-2016

Heard learned counsel for the writ
petitioner/appellant and learned counsel for the State.

2. The learned counsel for the petitioner/
appellant restricts the relief within a very short ambit. The
husband of the writ petitioner/appellant was a Class – I
officer in the Department of Agriculture, Government of
Bihar. The husband of the writ petitioner/appellant was at



the material time posted as District Agriculture Officer in 1992. In 1992, he was directed by notification, to officiate on the post of Joint Director, Agriculture, which officiation continued to 1996. This notification further stipulated that he will not get any additional benefits and remuneration of the post of Joint Director, Agriculture. The writ petitioner/appellant being the wife, is pursuing this matter which was originally initiated by her late husband.

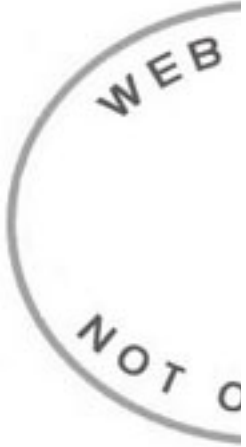
3. The claim is simple, that the reason was made to officiate at a higher post with higher responsibility was undisputed, made to officiate at higher post with higher responsibility not for a short period adjustment or as a stop gap arrangement, but for four long years. He was even otherwise qualified and competent to hold the post. In such an event, he could not be deprived of full remuneration of the higher post.

4. State urges that in the notification itself, it was stated that he would not be entitled to the benefits of the said higher post. Thus, all he could at best claim is a deputation allowance and nothing more. We are sorry, we cannot accept the stand of the State. It is now well settled, where an officer competent to hold the higher post is made

to officiate on a higher post not for a short period or as a stop gap arrangement, but for a considerable long period, the post being higher post and involving high duties and responsibilities, the person would be entitled to full benefits of that post.

5. Taking any other view of the matter, would allow the government or employer to take advantage of the situation, and make juniors work in senior post with remuneration of junior pay scales. That would be completely arbitrary and grossly discriminatory. No government can be permitted to take work of higher post to the higher duties and responsibilities and not pay for it. A stipulation to that effect would be clearly contrary to public policy and should also be arbitrary and violative of Article 14 of the Constitution.

6. Thus, to that extent, the relief, as claimed by the writ petitioner/appellant, being the widow of the employee, has to be allowed. The appeal is allowed, to that extent. The State is directed to work out the financial benefits that would accrue to the widow, accordingly, within a period of four months from today and pay to the widow, if she does not survive because of long pendency



of the litigation, to the lawful heirs, and in case, there is any delay in payment, the State will be liable to pay the same along with interest @ 9% from the date it was due to the date it is paid.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

AFR/NAFR	AFR
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