

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18206 of 2013

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1. Ratneshwari Devi W/O Late Uma Charan Das Resident Of Village- Kasmar Road, Peterbar, P.O+ P.S- Peterbar, District- Bokaro, Jharkhand.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Water Resoruces Department, Government Of Bihar, Patna.
3. The Additiional Secretary, Water Resources Department, Government Of Bihar, Patna.
4. The Chief Engineer, Wate Resources Department, Siwan.
5. The Superintending Engineer, Saran Canal Anchal, Gandak Project, Siwan.
6. The Executive Engineer, Saran Canal Division, Gandak Project, Siwan.
7. The Accountant Genera, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate

For the State : Mr. S.Raza Ahmad, Sr. Advocate, AAG V

Mr. Bishwambhar Prasad, AC to AAG V

For Accountant General: Mr. Madhuresh Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-08-2016

Heard the parties.

In the present writ petition, petitioner is seeking reliefs for second ACP as her husband has discharged the duty for more than 30 years but her husband has been denied from the said benefit, second prayer is that the date of promotion should be shifted from 1.4.1997 to 13.1.1994 to the post of Assistant Engineer.

It is an undisputed fact that husband of the petitioner entered into service on 2.7.1969, continued to discharge the duty up-to 30.1.2003. The husband of the petitioner has discharged the duty for more than 30 years. The Government of Bihar has framed

the scheme of ACP, 2003 which has been enforced on 25.6.2003 giving retrospective effect from 1999.

From the counter affidavit it appears that while the matter was pending before this Court the Government of Bihar considered the case of the petitioner, vide order dated 24.10.2014 granted the benefit of second ACP. So this question of granting second ACP no longer in dispute.

Further question remained for consideration whether husband of the petitioner should be given the benefit of shifting the date of promotion from 1.4.1997 to 13.1.1994 in the scale of Assistant Engineer.

It has been vehemently argued by the State that benefit suffers from delay and latches, it cannot be looked into after lapse of long period so much so records with respect to the husband of the petitioner is not available but the issue of grant of ACP and promotion remained pending for consideration before the Government.

Ultimately vide notification dated 24.10.2014 the present petitioner could be able to get the benefit of second ACP for her husband. In the counter affidavit it has specifically been mentioned in paragraph 8 that juniors to the husband of the petitioner have been granted promotion as Assistant Engineer with effect from 1.1.1993. The question of delay and latches that has

been raised by the State would have been relevant for denying the relief but there is a positive statement that some juniors have been granted benefit of Assistant Engineer and so much so the husband of the petitioner has been pursuing the matter and have been granted benefit of second ACP after long lapse of time. In such circumstances, granting relief of shifting the date of promotion may cause some monetary loss but balancing interest of the State vis-à-vis of petitioner, in the interest of justice the writ petition should not be rejected out rightly.

In such circumstances, this Court directs the respondents to consider the case of the petitioner as juniors of her husband have been granted benefit from earlier date and as such petitioner should also be given the same benefit from the date the juniors to her husband have been given. But this will not be treated to be precedent. Let the respondents must take decision within a period of six months.

With the aforesaid observation and direction this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

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