

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.203 of 2016
IN
Civil Writ Jurisdiction Case No. 159 of 2012**

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Smt. Shakuntala Sharma Wife of Late Ramadhar Sharma, Resident of Mohalla -
Aghoria Bazar, Chowk Professor Colony, P.S. - Kazi Mohammadpur, District -
Muzaffarpur.

.... Appellant/s

Versus

1. The B.R.A. Bihar University, Muzaffarpur, through the Registrar of the University, Muzaffarpur.
2. The Vice Chancellor, the B.R.A. Bihar University, Muzaffarpur.
3. The Registrar, the B.R.A. Bihar University, Muzaffarpur.
4. The State of Bihar through the Principal Secretary, HRD Deptt. Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Pratap Sharma, Advocate
For the Respondents : Mr. Santosh Kumar Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 01-05-2017

Seeking exception to an order dated 14.12.2015 passed
by the learned Writ Court in C.W.J.C. No.159 of 2012, this appeal
has been filed under Clause 10 of the Letters Patent.

Petitioner is widow of late Ramadhar Sharma, who died
in harness and was working as a Reader in the Department of Hindi,



R.D.S. College, Muzaffarpur under the B.R.A. Bihar University, Muzaffarpur. A dispute arose with regard to grant of family pension to the petitioner and when the same was not granted, the petitioner filed the writ petition in January, 2012 and the writ petition has been dismissed.

However, having heard learned counsel for the parties, we find that in the case of all other similarly situated employees, a co-ordinate Bench of this Court with regard to the same University in the case of Vyas Narain Singh & ors. vs. B.R.A. Bihar University, Muzaffarpur [2007(1) PLJR 241] had allowed identical petitions and granted benefit of family pension to the petitioners in the aforesaid case. However, this benefit has been denied to the petitioner only on account of the fact that the judgment in those cases were rendered in the year 2007. The Supreme Court upheld the judgment in the year 2009 and the petitioner having approached the court in January, 2012, it is held that the petitioner did not file the writ petition in time and, therefore, the benefit has been denied to the petitioner on account of delay and laches.

In our considered view, in the matter of grant of family pension to a widowed person, when the cause of action in the matter of receiving the pension accrues every month, the employee concerned loses and suffers the consequence of non-grant every



month and, therefore, it is well settled principle of law that in such cases the principle of delay and laches will not come. The employee would be entitled to the benefit of pension and at best because of the inordinate delay and laches, the benefit of arrears and interest can be denied to the petitioner but the grant of pension cannot be denied. In this case, we find that by virtue of the order passed in the case of *Vyas Narain Singh (supra)*, which has been upheld by the Supreme Court, all other similarly situated employees and their legal heirs are getting the benefit and merely because the petitioner, a widowed lady, approached this Court after two years, that also after representation was rejected, the benefit should not have been denied to her. It is not a case where she slept over the matter and it can be said that there is inordinate delay in seeking the benefit. The petitioner after 26 years of her husband's death kept on representing and immediately thereafter approached this Court.

Keeping in view all these factors, we allow the appeal, quash the order passed by the Writ Court on 14.12.2015 in C.W.J.C. No.159 of 2012 and direct for grant of family pension to the petitioner from 1st of January, 2012. After granting her due fixation of pension and revision of pension as may be applicable but arrears shall not be granted to her. She shall receive the pensionary benefits from the date as indicated hereinabove. The pensionary benefits with



effect from 1st of January, 2012 be released to the petitioner within a period of three months from today.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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