

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1274 of 2008

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1. Smt. Paspati Devi, aged about 56 wife of late Mahendra Thakur
2. Uma Shankar ,
3. Dev Shankar ,
4. Vijendra Kumar ,
5. Munna Kumar, Sons of Mahendra Thakur
All resident of Mohalla Gannipur, Khabra Road, P.S. Kazi Mohamadpur,
District- Muzaffarpur (Bihar)

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary Water Resources Department,
Govt. of Bihar, Patna.
2. The Chief Engineer (Mechanical) Water Resources Department, Govt. of Bihar,
Old Secretariat, Barracks, Patna.
3. The Superintending Engineer (Mechanical) Irrigation Mechanical Circle,
Muzaffarpur.
4. The Executive Engineer (Mechanical) Irrigation Mechanical Division,
Muzaffarpur.
5. The Assistant Engineer (Mechanical) Irrigation Mechanical Sub- Division,
Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioners : Mr. Ratan Kumar, Advocate.
For the Respondents : Ms. Shilpa Singh, GA-12
Ms. Abhanjali, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-08-2017

Heard learned counsel for the petitioners and learned
counsel for the respondents.

2. The present writ petition has been filed for correction of original petitioner's pay scale as mentioned in the order contained in memo no. 2566 dated 28.12.1978 issued under the signature of respondent no. 4, the Executive Engineer (Mechanical), Irrigation Mechanical Division, Muzaffarpur to give him the pay scale Rs. 220-315 upon his promotion to the post of work Charged Blacksmith Grade-II in



accordance with letter no. 15187 dated 04.09.1976 of the Government of Bihar, Irrigation Department, Patna; and for connected reliefs.

3. Learned counsel for the petitioner makes a short submission to the effect that the husband of the petitioner had been promoted during his lifetime to the post of Blacksmith Grade-II in terms of office order no. 2566 dated 28.12.1978 (Annexure-2) but inexplicably the petitioner has been described as Blacksmith Grade-III in the Service Book (Annexure-1). Learned counsel for the petitioner invites attention to certain departmental communication such as letter dated 09.03.2006 (Annexure-4), letter dated 02.05.2006 (Annexure-5) and letter dated 14.12.2006 (Annexure-7), all of which support the case of the husband of the petitioner. It is further stated that a representation had been filed before the Chief Engineer (Mechanical), Water Resources Department, Government of Bihar, Patna for correction of the pay scale. The representation was forwarded vide letter no. 3423 dated 22.09.2006 to the Executive Engineer (Mechanical) for examining the petitioner's claim according to Rules. Learned counsel for the petitioner therefore claims that by reason of wrong entry in the Service Book, the petitioner has wrongly been denied the benefit of the correct pay scale applicable to Blacksmith Grade-II.

4. Learned counsel for the respondents appears and has been heard. She submits that the petitioner's husband did not object to the pay scale till as late as 2006 and the claim has been raised after



inordinate delay of about 25 years.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. A Division Bench of this Court has laid down in *Indrawati Devi & Ors. Vs. The State of Bihar & Ors., 2007 (4) PLJR 661*, that non-payment of due salary is a continuous wrong and the claim ought not to be rejected on grounds of delay and latches.

6. In that view of the matter, this Court is of the view that the ends of justice will be met by directing the Executive Engineer (Mechanical), Irrigation Mechanical Division, Muzaffarpur (respondent no. 4) to dispose of the petitioner's representation forwarded to him by the Chief Engineer (Mechanical), Water Resources Department, Government of Bihar, Patna (respondent no. 2) in his letter no. 3423 dated 22.09.2006, if not already disposed of, expeditiously and in any event within a period of three months from the date of receipt/production of a copy of this judgment after grant of opportunity of hearing to the petitioner in accordance with law.

7. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.08.2017
Transmission Date	N.A.

