

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1689 of 2013
IN
Civil Writ Jurisdiction Case No. 13943 of 2013**

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Madhulata Sinha W/O Late Ramchandra Singh, R/O Village- Chandpur, P.O.-
Ekchari, P.S. Sanhola (Amdanda), District- Bhagalpur, At Present Residing At
Mohalla- Krishnagarh, P.S.- Sultangaj, District- Bhagalpur

.... Appellant/s

Versus

1. The State of Bihar through Joint Secretary, Finance Department, Govt. of Bihar, Patna
2. The Joint Secretary, Finance Department, Govt. of Bihar, Patna
3. The Director Primary Education, Govt. of Bihar, Patna
4. The District Education Officer, Bhagalpur, District- Bhagalpur
5. The District Treasury Officer, Bhagalpur, District- Bhagalpur
6. The General Manager, State Bank of India Main Branch, Bhagalpur, District- Bhagalpur
7. The Branch Manager, State Bank of India, Sultanganj Branch, District- Bhagalpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shardanand Mishra, Advocate
Mr. Dhananjay Kr. Gupta, Advocate
For the State/s : Mr. Nutan Sahay, Ac to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Having heard learned counsel for the parties, we find that the learned Writ Court has dismissed the claim of the petitioner, a widow, claiming benefit of dearness relief based on certain recommendations made by the Pay Revision Commission only on account of the fact that the recommendations were made in the year 1999 and the petition filed after a decade is barred by the principle



of limitation and *res judicata*. Principle of *res judicata* will not apply in the present case as the claim of the petitioner is based on fresh recommendations made and, therefore, once the respondents in the reply stated that her representation is under consideration, the learned Writ Court should have relegated the matter back to the Department for consideration.

As far as delay in raising the claim is concerned, even though there is delay in approaching the court, but the fact remains that the petitioner's claim is in term of dearness relief and family pension. It, being a continuous cause, the petition could not be summarily rejected as the petitioner had a recurring loss every month when her pension was paid. That being the position, it is a fit case, where the appeal should be allowed and the matter remanded back to the competent authority to consider the representation of the petitioner and take a decision on the same. Annexure-A filed by the respondents in the writ petition goes to show that the claim was pending consideration before the competent authority of the Department.

In view of the above, we allow this appeal, set aside the order dated 27.11.2013 passed by the learned Writ Court in C.W.J.C. No.13943 of 2013 and direct the competent authority to consider and take a decision on the representation made by the petitioner in



accordance with law.

The petitioner to file fresh representation along with the detailed claim and the same to be considered and decided by the competent authority of the Department within 90 days of its receiving.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

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