

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.16040 of 2016**

=====

1. Tara Devi, Wife of Late Yugeshwar Mandal, Resident of Village- Temha  
Bauni (Rohri), Post Office- Banni, Police Station- Maheshkhut, District-  
Khagaria ..... Petitioner

Versus

1. The State of Bihar.  
2. The Director, Primary Education, Bihar, Patna.  
3. The Collector, Khagaria.  
4. The District Education Officer, Khagaria.  
5. The District Superintendent of Education, Khagaria.  
6. The Headmaster, Primary School, Bandehra (North), Police Station-  
Pasraha, District- Khagaria ..... Respondents

=====

**Appearance :**

For the Petitioner : Mr. Ramesh Singh, Adv.  
For the Respondents : Mr. Arvind Kumar, AC to GP XXIII

=====

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR  
UPADHYAY  
ORAL ORDER**

2      06-02-2018                      Heard the learned counsel for the petitioner and the  
  
learned counsel appearing for the State.

Counsel for the petitioner submits that the husband of  
the petitioner was entitled to the benefit of selection grad, with  
effect from 01.04.1993 vide order, contained in Memo No. 234,  
dated 11.02.2006 (Annexure 1). The learned counsel submits that  
the petitioner being the widow was ignorant about the order, dated  
11.02.2006, and, as such, she has not approached the Court earlier.

In the present case no counter affidavit was filed  
despite two advance copies of the writ application serving in the  
office of the Advocate General on 17.09.2016 for facilitating the  
respondents to file the counter affidavit, which has not yet been  
filed.

There may be substance in the objection of the  
respondents that the Court may not grant relief which has effect



granting monetary benefit three years prior to the date of filing of the writ application in view of the judgment of the Apex Court, reported in **(2008) 8 SCC, 648 (Union of India & Ors. Vrs. Tarsem Singh)** but the said judgment is also applicable on the point of recurring cause of action in the matter of arrears of salary and delay has no role to play in the matter.

Under the aforesaid circumstances, when there is no counter affidavit and the claim relates to payment of monetary benefit arising out of a decision of 2006, the respondents are required to take appropriate decision with regard to implementation of Memo No. 234, dated 11.02.2006, and in the event the respondents finds the order, contained in Memo No. 234, dated 11.02.2006, is genuine and admissible to the husband of the petitioner, when consequential benefit in the nature of revision of pension be extended to the petitioner on the line of principle laid down by the Apex Court **(Union of India & Ors. Vrs. Tarsem Singh)** (supra) within a maximum period of sixty days, from the date of receipt/production of a copy of this order.

With the aforesaid observations, this writ application stands **disposed of**.

**(Anil Kumar Upadhyay, J)**

SA/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

