

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16057 of 2011

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MUSMAT LAXMINA DEVI Widow Of Late Munni Lal Bhagat R/O Birpur,
P.S.- Birpur, District- Supaul

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS Water Resources Department, Sinchai Bhawan, Patna
2. The Chief Engineer, Water Resources Deptt., Birpur, District- Supaul
3. The Chief Engineer, Water Resources Department, Purnea
4. The Superintending Engineer, Barrage Circle, Birpur
5. The Superintending Engineer, Canal Circle, Bathnaha, District- Araria
6. The Executive Engineer, Research And Investigation Division, Birpur
7. The Accountant General, Bihar, Birchand Patel Path, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vishwa Nath Ram Mr. Ajay Kumar
For the State	:	Mr. Alok Kumar Rahi, AC to AAG 4
For the Accountant General	:	Mr. Raghwanand

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 16-09-2019 Heard counsel for the petitioner and counsel for the respondents-State as well as counsel for the Accountant General.

Writ petition has been filed assailing the order dated 19.01.2011 whereby petitioner's husband had been treated to be appointed as steno-cum-typist with effect from 15.09.1973.

Counsel for the petitioner submits that appointment of petitioner's husband in the year 1973 was not a fresh appointment but regularization of the post by annexure 5 to the



writ petition. Whether petitioner's husband could have been treated to be fresh appointee with effect from 15.09.1973 was considered earlier by this court in petitioner's husband writ proceedings arising out of CWJC No. 4548/2007. On 27.10.2009 writ petition was disposed of. This court in the said proceedings directed as follows:-

“It is the petitioner who will now file his explanation as to why his appointment made on 15.09.1973 should not be taken as a fresh appointment which in turn would make him entitled for second time bound promotion as he had completed 25 years on 15.09.1998 by which time the government had done away with its policy of time bound promotion w.e.f. 01.01.1996. The petitioner will therefore file his explanation as to why his appointment made on the post of Steno-typist on 15.09.1973 should not be taken as a fresh appointment under which he could be entitled for second time bound promotion only with effect from 15.09.1998 by which time it became non-admissible to him in view of the abolition of the time bound promotion with effect from 01.01.1996. Once, the petitioner should file his representation, the competent authority being Chief Engineer of Water Resources Department at Birpur would pass a reasoned order within a period of three months from the date of its receipt”.

Petitioner's husband thereafter passed away in the year 2010. No such explanation was filed by petitioner's husband as to why his appointment made on 15.09.1973 should not be treated as a fresh appointment. Issue stands concluded in



light of order dated 27.10.2009 in CWJC No. 4548/2007.

Since petitioner's husband did not file any explanation now appointment of petitioner's husband with effect from 15.09.1973 was concluded. Issue therefore, now remains as to whether petitioner's husband had been appointed a fresh on 15.09.1973, he can be denied of any progression or time bound promotion.

Counsel for the State submits that first time bound promotion had been granted to petitioner's husband. Parties however, agree that in view of long service of the petitioner's husband his claim for more progression is due for consideration by the authorities.

Petitioner's husband's entitlement for time bound promotion or monetary progression under ACP should be examined and admissible dues be paid to the petitioner by an order considering entitlement of petitioner's husband along with detail of calculation showing amount paid as a result of such consideration by respondent no.2.

Since claimant is now a widow, this court would direct that entire exercise should be completed by respondent no.2 within a period of three months from the date of receipt/production of a copy of this order.



Writ petition stands disposed of.

(Madhuresh Prasad, J)

s.hassan/-

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