

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

**Civil Writ Jurisdiction Case No. 24410 of 2018**

Nirmala Devi Wife of Late Madan Jha R/o Mohalla-Nasrathkhani, P.S.-  
Nasrathkhani, District-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar,  
New Secretariat Building, Bailey Road, Patna
3. The T.M. Bhagalpur University, Bhagalpur, through its Registrar.
4. The Vice Chancellor, T.M. Bhagalpur University, Bhagalpur
5. The Registrar T.M. Bhagalpur University, Bhagalpur.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Sinha, Sr. Adv.

Mr. Subhash Chandra Jha, Adv.

For the Respondent/s : Mr. Madhaw Pd. Yadaw, G.P. 23

For Respondent University: Ms. Rekha Prasad, Adv.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

ORAL ORDER

11    23-09-2021                      The instant case has been taken up for  
consideration through the mode of Video conferencing in  
view of the prevailing situation on account of COVID 19  
Pandemic, requiring social distancing.



The present writ petition has been filed to direct the respondents to treat the deceased husband of the petitioner as a regular Class-IV employee (Darwan) of the University's hostel i.e. of T.M. Bhagalpur University, Bhagalpur, like similarly situated employees of the University, especially like other similarly situated Darwans namely Jawala Prasad Singh, Sushil Thakur and others, who have been absorbed pursuant to the judgment passed by the learned Division Bench of this Court, reported in 1997(1) PLJR 507 [Jawala Prasad Singh & Ors. The State of Bihar & Ors.).

The Ld. Senior counsel for the petitioner, Shri Ajay Kumar Sinha assisted by Shri Subhash Chandra Jha, Advocate, submits that the Respondent University Authorities be directed to consider the case of the deceased husband of the petitioner for absorption in light of the judgment rendered by the learned Division Bench of this Court in the case of Jawala Prasad Singh (supra).

Per contra, the learned counsel for the Respondent T. M. Bhagalpur University, Bhagalpur submits that the case of the deceased husband of the petitioner is different from the case of Jawala Prasad Singh, Sushil Thakur and others, however, if the petitioner files appropriate representation before the respondent authorities, they would definitely take appropriate decision



in accordance with law.

The Ld. Counsel for the respondent State, Shri Madhaw Prasad Yadav, G.P. 23 has also appeared and has submitted that a counter affidavit has been filed on behalf of the respondent State.

Having regard to the facts and circumstances of the case, this Court finds that an absolute direction for absorption of the services of the deceased employee cannot be issued under Article 226 of the Constitution of India, in as much as the final decision is required to be taken by the University authorities, after taking into account the factual aspect of the matter, hence this Court deems it fit and proper to grant liberty to the petitioner to file appropriate representation before the Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur regarding consideration of the case of the deceased husband of the petitioner for absorption and in case such a representation is filed within a period of four weeks from today, the learned Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur shall consider the same in accordance with law and pass a reasoned and a speaking order within a period of 12 weeks, thereafter.

It is needless to state that in case the prayer of the petitioner regarding absorption of the services of her deceased husband finds favor with the respondent no.4,



the consequential benefits shall also be paid forthwith.

The writ petition stands disposed of on the  
aforesaid terms.

**(Mohit Kumar Shah, J)**

Tiwary/-

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