

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4700 of 2012**

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Raj Kumari Devi W/o late Ramashankar Singh Resident of Mohalla-Parsa Bazar, Bhagwati Nagar, P.O. Parsa, P.S. Parsa Bazar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Chief Secretary, Govt. of Bihar Old Secretariat Building, Patna
2. The Principal Secretary to Govt. Water Resources Department, Irrigation Building Old Secretariat Ca
3. The Chief Engineer, Central Design, Water Resources Department, Anisabad, Patna-2
4. The Superintending Engineer, Dam and Gate Design Circle, Water Resources Department, Anisabad, Patn
5. The Executive Engineer, Dam and Gate Design Division No. 1 Water Resources Department Anisabad, Pat

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ram Chandra Pd. Bharti, Advocate

For the Respondent/s : Mr. Kumar Alok, SC 7

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**

**Date : 20-09-2022**

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner is wife of the deceased employee and has prayed for the following relief/reliefs:

“1. That, by this writ application the petitioner calling in question and Challenges disputes, the Legality and validity of the order contained in Memo No. 60 dated 19.01.2010 issued by the Chief Engineer, Central Design organization water Resources Department, Anisabad, Patna, whereby the earlier promotion was granted as a need based post has been cancelled and Identified the said promotion with effect from the date mentioned in the attached List of employee i.e.



01.7.2001, in a Most illegal, arbitrary, malafide manner which is contrary to the policy decision or guidelines of the Finance Department contained in Letter No. 5552 dated 23.07.2003.

2. (I) That an appropriate writ in the nature of certiorari be issued for quashing the order contained in Memo No. 60 dated 19.01.2010 issued under the signature of the Chief Engineer, Central design organization, water Resources department be quashed in respect of petitioner.

(II) That a writ in the nature of mandamus or appropriate direction be issued commanding the respondents to restore the said promotion which has been granted earlier by Memo No. 681 dated 29.6.2005 with all consequential benefits w.e.f from 01.01.1996 including pensionary benefits.

(III) That accordingly an appropriate writ or direction be also issued commanding the Respondents not to give effect of the order dated 19.01.2010 till the final adjudication of the said issue.

(IV). Any other relief or reliefs for which the petitioner be found entitled to law be granted to him.”

3. Question for consideration in the present petition is whether the deceased employee is entitled to date of promotion to the post of Head Clerk with effect from 01.01.1996 or 01.07.2001.

4. The deceased employee was granted benefit of promotion to the post of Head Clerk with effect from 01.01.1996. Thereafter, the competent authority proceeded to alter the date of promotion from 01.01.1996 to 01.07.2001. Before giving effect to



such decision on 19.01.2010, the deceased employee was not heard in the matter. On the short ground that the deceased employee has not been provided an opportunity before altering his date of promotion to the post of Head Clerk, the present petition is allowed while setting aside the order dated 19.01.2010.

5. The Chief Engineer is hereby directed to issue detailed show cause notice as to why the deceased employee is not entitled to promotion to the post of Head Clerk with effect from 01.01.1996 and how he is entitled to date of promotion to the post of Head Clerk with effect from 01.07.2001. Such a detailed notice shall be issued to the petitioner within a period of two months from the date of receipt of this order. On receipt of show cause notice to be issued by the Chief Engineer, the petitioner is hereby directed to furnish his detailed explanation to contend that deceased employee is entitled to promotion to the post of Head Clerk with effect from 01.01.1996. Such explanation shall be submitted by the petitioner to the Chief Engineer within a period of two months from the date of receipt of show cause notice to be issued by the Chief Engineer. On receipt of petitioner's reply to the show cause notice, the Chief Engineer is hereby directed to pass a detailed speaking order after due consideration of each of the contention to be raised by the petitioner against show cause notice.



Such a speaking order shall be passed within a period of two months from the date of receipt of petitioner's explanation to be submitted against show cause notice. If the deceased employee is entitled to promotion in the year 2001 or 1996, refixation of pay and pension procedure shall be carried out, if any arrears to be paid in that event the same shall be calculated and released in favour of legal heirs of deceased employee within reasonable period of three months from the date speaking order. Failing which legal heirs are entitled to interest @ 8 % *per annum* on all arrears amount.

6. Accordingly, order dated 19.01.2010 stands set aside.

**(P. B. Bajanthri, J)**

GAURAV S./-

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