

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2969 of 2023

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Ruby Kumari Daughter of late Upendra Jha, Resident of Ward No. 06,
Shivpura Mohalla, P.S.- Dumara, Dist- Sitamarhi- 43301, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources, Government of Bihar, Patna.
2. The General Administrative Department through the Principal Secretary, Government of Bihar, Patna.
3. The Chief Engineer, Irrigation Development, Department of Water Resources, Darbhanga.
4. The Superintendent Engineer, Koshi Canal Division, Nirmali Camp, Madhubani, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanket Kumar, Advocate Mr.Pushpendra Kumar Singh, Advocate
For the Respondent/s	:	Mr.Akash Chaturvedi, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-04-2023 Heard learned counsel for the petitioner and the State.

Petitioner in the present case is seeking the following
reliefs:-

“a) For issuance of writ in the nature of Certiorari quashing the Letter No.129 dated 23.01.2018 (Annexure-P/8 Series) whereby and whereunder the Executive Engineer, Western Koshi Canal Circle, Madhubani was directed to return the documents of the petitioner since in light of the conditions laid down in Clause 3 of the Letter No.16973 dated 10.12.2014 of the General Administrative Department, Government of Bihar, the claim of the petitioner is not maintainable.



b) For issuance of writ in the nature of mandamus directing and commanding upon the Respondents, to appoint the petitioner on compassionate ground in Class-III post as her father Late Upendra Jha, Junior Engineer, under Executive Engineer, Koshi Canal Division, Madhubani, Bihar, died in harness on 21.02.2009, while posted as Junior Engineer.

c) For issuance of writ in the nature of Mandamus, directing and commanding the respondent authorities to appoint the petitioner on compassionate ground in Class III post, on account of death of her father Late Dr Upendra Jha, Junior Engineer, under Executive Engineer, Koshi Canal Division, Madhubani, Bihar, on 21.02.2009, while posted as Junior Engineer, under Executive Engineer, Koshi Canal Division, Madhubani, Bihar and for which application of the petitioner has been duly received on 01.07.2017 in the office of Executive Engineer, Western Kosi Canal Circle, Madhubani.

d) For any other relief to which petitioner may be entitled.”

Learned counsel for the petitioner submits that the father of the petitioner was a Junior Engineer in the Department of Koshi Canal Division, Madhubani. He died in harness on 21.02.2009 leaving behind his widow and three children who are two sons and one daughter. The daughter is the petitioner before this Court. It is stated that the daughter and the widow of the deceased government employee are living together. Learned



counsel for the petitioner has informed that the sons of the deceased government employee are doing some private job, however, those have not been fully explained in the writ application.

Learned counsel submits that on 27.01.2011 an application was made by the present petitioner for her appointment on compassionate ground which has been rejected vide order contained in letter no.129 dated 23.01.2018 (Annexure- 'P/8' series). It is submitted that the reasons provided in Annexure- 'P/8' series are not correct, hence, it is liable to be set aside.

Learned counsel for the State has opposed this writ application. It is submitted that in the writ application an attempt has been made to suppress the correct information with regard to the employment of the two sons of the deceased government employee. According to him, as per the government policy where the dependents siblings are only daughters, the claim of the married daughter may be considered. It is submitted that in this case the deceased had two sons and one daughter. Daughter who is the petitioner before this Court is already married and about the two sons there is no statement, however, in course of argument it has been accepted at the bar that both



the sons are engaged in some private job.

If this is the position that they are gainfully employed, the judgment of the Hon'ble Full Bench in the case of **Niraj Kumar Mallick vs. The State of Bihar & others** reported in **2018(2) PLJR 951** would be applicable.

Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court finds substance in the submission of learned counsel for the State. The death of the deceased government servant took place in the year 2009, therefore, 14 years have gone thereafter and even the claim of the petitioner was rejected five years ago. This writ application has been filed in the year 2023.

In the circumstances, this Court is of the considered opinion that the writ application suffers from the vice of delay and laches and is liable to be rejected on this ground alone.

This writ application is dismissed.

(Rajeev Ranjan Prasad, J)

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