

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21143 of 2013

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Smt. Bandana Devi Wife Of Late Ram Autar Sah Resident Of Village-
Maranga, P.S.- K. Hat, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Registrar, Co-Operative Societies, Department Of Co-Operative,
Government Of Bihar, Patna
3. The Joint Registrar, Co-Operative Societies, Purnea Division, Purnea
4. The Assistant Registrar, Co-Operative Societies, Bihar, Patna
5. The Managing Director, Co-Operative Societies, Department Of Co-
Operative, Kishanganj
6. The Assistant Registrar, Co-Operative Societies, Kishanganj Circle,
Kishanganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Nurul Hoda, Advocate Mr. Satish Chandra Mishra, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha, GP-27

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 02-02-2023 Mr. Rishiraj Sinha, learned counsel for the

respondents in the case of year 2013 is not present. Mr.

Prabhakar Jha, GP-27 has been directed to appear.

2. The petitioner by way of this writ petition prays as

under:-

(I) For issuance of an appropriate writ/writs in the
nature of certiorari for quashing the impugned order contained
in Memo No.1251 dated 29.02.2012 (Annexure 10) passed by
Respondent No.2 i.e. the Registrar, Co-Operative Societies,
Department of Co-operative, Government of Bihar, Patna,
whereby and where under the claim made on behalf of the
husband of the petitioner for grant of 2 Time Bound promotion
and benefit of Assured Career Progression (A.C.P.) with effect
from 09.08.1999 by exempting him from passing Final



Departmental Examination admissible to him has been rejected wrongly, illegally and erroneously despite order dated 13.12.2011 (Annexure-4) passed by this Hon'ble Court in CWJC No.6704 of 2007, which was filed on behalf of late husband of the petitioner..

(ii) For issuance of an appropriate order/direction upon the concerned respondent to grant and to pay the petitioner the benefits of second time bound promotion with effect from 09.03.1993 and the benefits of A.C.P. with effect from 09.08.1999 with adequate penal interest as the said benefits have not been paid to the husband of the petitioner and the husband of the petitioner retired from service on superannuation on 30.11.2002 from the post of Assistant Registrar, Co-operative Societies, Kishanganj Circle of the District of Kishanganj and he died 24.12.2011 and therefore, petitioner begs to prefer this writ application."

3. The petitioner's husband had earlier preferred a writ petition bearing CWJC No.6704 of 2007 wherein order was passed by this Court on 13.12.2011 dealing with the aspect regarding the grant of exemption after the age of 50 years. In spite of the said order having been passed with specific direction to release the benefits holding that such benefits cannot be refused, the respondents have not released the said benefits and the concerned person, i.e., husband of the petitioner expired. Instead of filing of contempt proceeding, petitioner has preferred this writ petition claiming that the said benefit of her late husband.

4. The respondents have filed a reply and they have again taken the same plea which was examined by this Court earlier. The plea has been taken that there is no provision to grant exemption from passing of the departmental examination



to a retired government employee with effect from a date when he has reached 50 years of age.

5. It would be apposite to quote the observations of the High Court while passing the earlier judgment in the case of ***Rama Autar Sah, v. State of Bihar & Ors.*** passed in ***Civil Writ Jurisdiction Case No. 6704 of 2007*** on 13.12.2011 in para-4 which is as under:-

“4. Having considered the fact that petitioner was allowed first time bound promotion with effect from 1.4.1981, I direct the authorities to consider his request for grant of exemption from passing final departmental examination, second time bound promotion, as also A.C.P. in terms of the 2003 Rules with effect from the due date. If those benefits are admissible to him with effect from a date which is prior to the date of his superannuation, then in my opinion, he cannot be refused such grant. Any monetary benefit admissible to the petitioner in the light of my order should also be given to the petitioner within the same time and with these observations, writ petition is disposed of.”

6. In view of above, this Court need not to pass again a finding to the same effect. This writ petition deserves to be allowed.

7. Accordingly, it is directed that the respondents shall take steps for granting ACP benefits to the deceased husband of the petitioner and make pay fixation accordingly and release his retiral-cum-death gratuity and other benefits by making appropriate re-fixation in his scale and release the same



to the petitioner. The family pension of the petitioner would also be accordingly revised and arrears shall be paid along with interest at the rate of 9% per annum. Exercise shall be concluded within three months.

8. In view of the fact that the order of this Court was not complied with, a cost of Rs.50,000/- is also imposed to be paid to the petitioner for forcing her with the present litigation and the same would be recoverable from the concerned authorities.

9. The writ petition stands allowed.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item no.47

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