

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14955 of 2017

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Nirmala Devi W/o Late Braj Kishore Pandey, Resident of Mohalla- Chhota
Brahampur, Brahmin Toli, P.S.- Bhagwan Bazar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department (GAD), Government of Bihar, Patna
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dewendra Narayan Singh, Advocate
For the State	:	Mr. Dhurendra Kumar, AC to GP-5
For the A.G.	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

12 27-04-2023 Heard Mr. Dewendra Narayan Singh, learned counsel

appearing on behalf of the petitioner, Mr. Dhurendra Kumar,

learned AC to GP-5 appearing on behalf of the State and Mr.

Arun Kumar Arun, learned counsel for the Accountant General,

Bihar.

2. Learned counsel appearing on behalf of the
petitioner submitted that the husband of the petitioner had died
in harness while he was working as Assistant in the office of
Divisional Commissioner, Saran at Chapra. The second time
bound promotion due to the deceased employee has not been
given which has led the petitioner to file the present writ



petition. Learned counsel submitted that the deceased employee had fulfilled all the conditions for his entitlement for the second time bound promotion. The only requirement for being given the benefit of second time bound promotion at the relevant point of time was passing of departmental examination in accordance with the department's circular applicable at the relevant point of time. Denial of the benefit of second time bound promotion to the deceased employee is arbitrary act of the respondents for the reasons that he fulfilled all the criteria for promotion.

3. Learned counsel appearing on behalf of the respondent submitted that second time bound promotion was not given to the petitioner in accordance with rules which have been brought on record by way of 'Annexure-K' to the second supplementary counter affidavit filed on behalf of the respondent no. 1.

4. Learned counsel further submits that, the office of the Divisional Commissioner, Chapra vide its letter no. 949 dated 05.06.2018 has informed that the husband of the petitioner Late Braj Kishore Pandey had been appointed to the temporary vacant post of Assistant, in the office of the Divisional Commissioner, Saran Division, Chapra vide order memo no. 75 dated 18.02.1988 w.e.f. 01.01.1985. That again vide order memo



no. 1981 Mu. dated 26.07.1999 of the office of the Divisional Commissioner, Chapra, the husband of the petitioner was adjusted in the cadre of Secretariat Assistant w.e.f. joining dated i.e. 25.11.1982, but after adjustment, the husband of the petitioner did not pass the departmental examination convened for the purpose.

5. Learned counsel further submits that, w.e.f. 1988 the then Personnel and Administrative Reforms Department now the General Administration Department is only the competent authority to appoint or promote their employees of the aforesaid cadre of Assistant of Secretariat and its attached offices. In response to this department's letter no. 1927 dated 08.02.2018, the Special Character roll of the husband of the petitioner has been received. But as per the report, the husband of the petitioner Late Braj Kishore Pandey did not pass the departmental examination. Also, paragraph no. 11 of the resolution no. 10770 dated 30.12.1981 is self speaking that the time bound promotion would be admissible to the employees when they are found eligible for the said promotion.

6. Considering the rival submission of the parties, the case of the petitioner is that her husband had passed the departmental examination which entitles the deceased employee



for the benefit of second time bound promotion and other consequential benefits arising out of the same. Record reveals that similarly situated employee namely, Sitaram Prasad has been granted benefit of second time bound promotion by office order dated 29.07.1994. The petitioner has made specific statement to that effect in paragraph no. 15 of the reply to the second supplementary counter affidavit filed on behalf of the respondent no. 1 which reads as follows:

“15. That the identical claims of similar situated persons have already been considered by the respondents, but for the reasons best known to them, the similar claim of the petitioner is not being considered despite several representations having been filed before the respondent authorities, which would be evident from perusal of the relevant extract of the service book of similar situated person Sri Sitaram Prasad who was also given appointment along with the husband of the petitioner vide annexure 1 to the writ application as vide annexure 1, altogether 11 persons including petitioner’s husband and the said similar situated persons Sitaram Prasad whose name figured at serial No. 8 of the list of Deputed Assistants, have been appointed and in the said list of deputed persons the name of petitioner’s husband figured at serial No. 11.”

7. Considering the aforesaid facts, the petitioner, if so advised, may file a detailed representation before the Commissioner, Saran Division, Chapra.

8. The representation filed by the petitioner must be



disposed of within a period of six weeks from the date of filing of the representation.

9. The Commissioner, Saran Division, Chapra, must look into the records relating to the petitioner and the other employee namely, Sitaram Prasad, who was appointed along with the petitioner and was given benefit of second time bound promotion.

10. Accordingly, the present writ petition is allowed.

(Purnendu Singh, J)

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