

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.85 of 2023

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Kiran Devi widow of Late Shashi Ranjan Prasad, Resident of Kanhaiya Mishra Pokhar (K.M. Tank), Laheriya Sarai, Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Water Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Water Resource Department, Government of Bihar, Patna.
3. The Engineer in Chief, Water Resource Department, Government of Bihar, Patna.
4. The Executive Engineer, Water Resource Department, Darbhanga Division, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Adv.
For the Respondent/s : Mr. Vijay Kumar Verma, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 31-08-2023

Heard Mr. Anand Kumar Ojha, learned counsel appearing on behalf of the petitioner and Mr. Vijay Kumar Verma learned counsel appearing on behalf of the State.

2. Learned counsel appearing on behalf of the petitioner submits that the Controlling Officer of the deceased employee namely Late Shashi Ranjan Prasad, who had retired from the post of Head Clerk, has found him to be entitled to receive pay-scale of Rs. 1640-60-2600-75-2960 w.e.f. 01.03.1992 and further the monetary benefit has not been given to the deceased employee, as



such the family pension of the petitioner has been fixed as a reduced rate. The petitioner has filed detail representation for granting the relief claimed by her in accordance with the letter no. 1490, dated 01.04.2020. The Executive Engineer, Water Resources Department, posted at Biraul without considering the fact that the date of birth of the deceased employee is 08.10.1925 and date of his appointment is 17.11.1953. The apparent mistake committed by the Executive Engineer has compelled the petitioner to file the present writ petition. Learned counsel further submits that the present is not a case that due to mis-representation the deceased had obtained service on the basis of incorrect date of birth rather the impeccable documents available with the service record of the deceased would show that the service book of the husband of the petitioner was opened after being satisfied with the records produced at the time of joining of the husband of the petitioner. The service book reveals that the date of birth of the husband of the petitioner is 08.10.1935.

3. This Court finds that non-consideration of the correct date of birth of the husband of the petitioner, the department cannot initiate the whole exercise by considering the seniority of the husband of the petitioner. The deceased employee at the relevant point was posted on the post of Head Clerk and from



perusal of the final gradation list it would appear that the date of birth of the deceased employee has been mentioned as 08.10.1935. If the petitioner is being harassed for the mistake committed by the Executive Engineer, who has mentioned the date of birth of the deceased employee as 08.10.1932, ignoring the date of birth mentioned in the seniority list and the service book of the deceased employee.

4. Considering the said date of birth of the husband of the petitioner, who had retired on 31.01.1993, at the age of 58 years, in accordance with the prevailing circular of the State Government, learned counsel further submits that the persons junior to the husband of the petitioner have been granted promotion to the post of Principal Assistant w.e.f. 01.03.1992.

5. In these background, learned counsel seeks to file detail representation before the Principal Secretary, Department of Water Resources Department, Government of Bihar, Patna, respondent no. 2.

6. The Principal Secretary, Department of Water Resources Department, Government of Bihar, Patna, respondent no. 2 is directed to call for the service records relating to the husband of the petitioner from the office of the Executive Engineer, Water Resources Department, Biraul to verify the



records particularly with respect to the date of birth of the husband of the petitioner and accordingly take action to grant all the relief as prayed for by the petitioner in the present writ petition in accordance with law within a period of four weeks from the date of passing of this order.

7. The Principal Secretary, Department of Water Resources Department, Government of Bihar may consider the fact that the petitioner is an illiterate widow and she requires small compassion taking into consideration that she has to face acute financial crisis, on account of non-payment of admissible family pension to her on account of denial of the cadre promotion to the post of Principal Assistant w.e.f. 01.03.1992.

8. In case, the Principal Secretary, Department of Water Resources Department, Government of Bihar, Patna, respondent no. 2 finds that the petitioner is not entitled for the relief as prayed for in the present writ petition as well as in the representation, then in that case he is required to give proper opportunity of hearing to the petitioner, who may represent through her appointed learned counsel or by her representative. The final decision must be taken by him without being prejudice by any of the order passed by his Subordinate Authority.



9. With the above observation and direction the writ
petition stands disposed of.

(Purnendu Singh, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

