

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.390 of 2019
In
Civil Writ Jurisdiction Case No.731 of 2017

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Smt. Kusum Devi, Wife of Sri Sarvanand Singh Resident of Mohalla - New
Atwarpur, P.S. - Parsa Bazar, District - Patna.

... .. Appellant

Versus

1. The State of Bihar Through the Principal Secretary, Department of Health Services, Government of Bihar, New Secretariat, Bihar, Patna.
2. The Director-in-Chief, Health Services, Government of Bihar, New Secretariat, Patna.
3. The Regional Deputy Director, Health Services, Saran Division, Chhapra.
4. The Civil Surgeon Gopalganj, Sadar Hospital, Gopalganj.
5. The Medical Officer in Charge, Primary Health Centre, Baikunthpur, Gopalganj.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Advocate
For the Respondent/s	:	Mr. S.D. Yadav, AAG-9
		Mr. Anil Kumar Verma, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-04-2024

Ref: I.A. No. 01 of 2019

Heard I.A. No. 01 of 2019. Appellant has filed this I.A. for condonation of delay in filing L.P.A. No. 390 of 2019. There are 268 days of delay in filing L.P.A. Even though sufficient cause has not been shown. However, third party right has not been affected in the event of granting relief in favour of the appellant to the extent of second A.C.P. Therefore, delay of about 268 days in filing L.P.A. No. 390 of 2019 stands condoned.



2. Accordingly, I.A. No. 01 of 2019 stands allowed.

3. With the consent of the learned counsels for the respective parties, L.P.A. No. 390 of 2019 is taken up for final disposal. Core issue involved in the present *lis* is whether appellant - Smt. Kusum Devi is entitled to 2nd A.C.P. benefit or not?

4. Brief dates and events are that she was initially appointed as A.N.M. in the office of Directorate of Health Services, Bihar on 30.10.1970 in the pay-scale of Rs. 580/- to Rs. 860/-. She has earned time bound promotion with effect from 01.04.1981. Thereafter, she was promoted to the post of Lady Health Visitors on 28.01.1983. She has attained age of superannuation and retired from service on 30.11.2004. In the meanwhile, in the year 2003, A.C.P. Scheme was introduced w.e.f. 09.08.1999. Benefit of 1st A.C.P. and 2nd A.C.P. was required to be extended as and when employee completes 12 years and 24 years of service, respectively. The appellant has been granted 1st A.C.P. and 2nd A.C.P. has been denied.

5. The learned Single Judge has taken note of that appellant has not completed 24 years of service as on her date of retirement on 30.11.2004. Since, she would be eligible for 2nd A.C.P. only in the year 2007 i.e., beyond her date of retirement.



Taking note of these facts and circumstances, the learned Single Judge has proceeded to reject the C.W.J.C. No. 731 of 2017.

6. Learned counsel for the appellant could not apprise this Court as to what is the basis for claiming 2nd A.C.P. with reference to service particulars of the appellant read with the scheme of the A.C.P. Rules, which was introduced in the year 2003 with effect from 09.08.1999. 12 years and 24 years were required to be counted only from 09.08.1999 read with the fact that an employee is stagnated in a particular post so as to extend 1st and 2nd A.C.P. Before completion of 24 years of service, the appellant has attained age of superannuation and retired from service.

7. Therefore, there is no infirmity in the order of the learned Single Judge. Accordingly, the present L.P.A. stands dismissed while affirming the order of the learned Single Judge dated 18.05.2018 passed in C.W.J.C. No. 731 of 2017.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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