

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11154 of 2024

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Binita Shukla, aged about 65 years, Gender, Female, W/o - Late Madan Mohan Shukla, Resident of ward No. 12, Village - Vishunpur Titidha, P.O. - Hajipur, P.S.- Hajipur, District - Vaishali, Bihar - 844101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Finance Department, Government of Bihar, Patna.
3. The Secretary (Expenditure) Finance Department Government of Bihar, Patna.
4. The Additional Chief Secretary cum Principal Secretary, Rural works Department, Government of Bihar, Patna.
5. The Engineer in Chief, Rural works Department, Government of Bihar, Patna.
6. The Chief Engineer-2 Rural works Department, Government of Bihar, Patna.
7. The Executive Engineer, Rural works Department, works Division - Mahua, District- Vaishali, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar, Advocate Mr. Ajay Kumar, Advocate
For the State	:	Mr. Kinkar Kumar, SC 9 Ms. Sushmita Sharma, AC to SC 9

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

2 29-07-2024 Heard Mr. Ashok Kumar along with Mr. Ajay Kumar, learned counsels appearing on behalf of the petitioner and Mr. Kinkar Kumar, learned SC 9 along with Ms. Sushmita Sharma, learned AC to SC 9 for the State.

2. Mr. Ashok Kumar, learned counsel appearing on behalf of the petitioner submits that petitioner's husband



became entitled for financial progression with effect from 09.08.1999 when he was granted 1st ACP and with effect from 01.09.2006 when he was granted 2nd ACP and accordingly he became entitled for grade pay PB III. Learned counsel further submits that the scheme of ACP is self-contain, which relates to financial progression as a result of stagnation. The petitioner's husband having served for a long duration of time and has fulfilled all the conditions stipulated in the ACP scheme and for financial progression, the Apex Court has held in the case of *Amresh Kumar Sinha & Ors. v. The State of Bihar & Ors.*, reported in **2023 SCC Online SC 496** that technical eligibility which is required for regular promotion will not come in a way in respect of such employee who has stagnated. Later on, the Full Bench of this Court in the case of **Kamlanand Thakur Vs. State of Bihar & Ors. (C.W.J.C. No.18727 of 2017) & other analogous cases** has clarified the same. Learned counsel in these backgrounds, seeks to file a detailed representation before the respondent no.4, the Additional Chief Secretary-cum-Principal Secretary, Rural works Department, Government of Bihar, Patna.

3. Considering the aforesaid submissions made on behalf of the petitioner, as well as, the desire of the petitioner to



file a detailed representation before respondent no.4, the Additional Chief Secretary-cum-Principal Secretary, Rural works Department, Government of Bihar in light of the law laid down by the Apex Court in the case of ***Amresh Kumar Sinha (Supra)*** and the Full Bench of this Court in the case of ***Kamlanand Thakur (Supra)***, respondent no.4 is directed to consider the claim of the petitioner, as claimed for in the present writ petition, well within a period of six weeks from the date of its filing, on the basis of records in respect of the husband of the petitioner late Madan Mohan Shukla, who had retired from the post of senior clerk on 30.04.2014. It is made clear that the petitioner has claimed for revision of family pension and arrear of salary and, as such, the authorities concerned must not delay in passing the order or taking any technical plea of delay and laches, particularly in the cases of retiral benefits, as the same will not come into effect, as has been clarified by the Apex Court in the case of **Union of India & Ors. Vs. Tarsem Singh, reported in 2008(8) SCC 648.**

4. All the monetary benefits, to which the petitioner is entitled, should be given to her in further period of two weeks.

5. In case, the petitioner is not entitled, she must be given personal hearing and, thereafter, a reasoned order in



accordance with law, is required to be passed.

6. The writ petition is, accordingly disposed of.

(Purnendu Singh, J)

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