

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7565 of 2018

Mostt. Aanandi Devi Wife of Late Praphul Chandra Jha, resident of Mohalla-
Murtijachak Mirjanhat, P.S.- Mirjanhat, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Accountant General, Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Block Development Officer, Bhagalpur.
5. The Treasury Officer, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pravina Kumari, Adv.
For the Respondent/s	:	Mr. Sudhir Kr. Upadhyay, (AC to GP-7)
For the A.G. Bihar	:	Mr. Binod Kr. Labh, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 08-04-2024 Heard learned counsel for the petitioner, learned
counsel for the Accountant General and learned counsel for the
State.

2. The present writ application has been filed with the
following relief(s):-

*“(i) For issuance of a writ in the nature of
Certiorari, for setting aside the order dated
25.02.2017 vide Memo No. 245, passed by the
District Magistrate, Bhagalpur (R-3) whereby
and where under the claim of the petitioner’s
husband with regard to grant of 1st and 2nd
ACP with effect from 09.08.1999, as well as
all consequential benefits rejected.*

(ii) For a direction upon the respondents concerned to pay all the consequential benefits on the basis of ACP.”

3. Learned counsel for the petitioner submits that the petitioner's husband was appointed as Lower Division Clerk in Sabour Block in B.D.O. Office and retired on 31.07.2003 as a Clerk from same Office. He further submits that the petitioner's husband died on 14.05.2006 and P.P.O. has been issued in favour of the petitioner. He further submits that the writ petition was filed in the year 2016 directing the respondent authority to grant A.C.P. to the petitioner. The order passed by this Court in the said C.W.J.C. No. 8824 of 2016 is as follows:-

“After some argument, learned counsel for the petitioner seeks leave to withdraw this application to move before the concerned authority for redressal of her grievance. Accordingly, this writ application is dismissed as withdrawn with the aforesaid liberty granted to the petitioner. ”

4. Learned counsel for the petitioner further submits that thereafter representation has been filed but her claim was rejected by the District Magistrate, Bhagalpur which has been challenged before this Hon'ble Court in the present writ petition. He further submits that the petitioner's husband had passed one exam and thereafter, exam has never been done, due

to which he could not appear in the next exam and therefore, after completion of 50 years, he is entitled for the said benefit in the light of the Rules attached in annexures to the counter-affidavit filed by the State. He further submits that the case was entertained by this Hon'ble Court in the year 2016, therefore, presently the case is not delayed and the present writ application has been filed in continuation of the same.

5. Learned counsel for the State on the other hand submits that the petitioner is not entitled for any relief. The authority has already complied the order dated 30.01.2017 passed by this Hon'ble Court in C.W.J.C. No. 8824 of 2016. He further submits that this case was dismissed as withdrawn in which liberty was given to file representation. He further submits that admittedly as per the pleading of the petitioner, her husband was in service, retired in the year 2003 and died in the year 2006 but during his lifetime, he has neither filed any application for A.C.P., nor after retirement he filed any further application or filed writ petition but after his death, the petitioner being the widow has filed the writ application in which this Court has not passed any order on merit rather liberty was given to pass order on his representation and the said order has been passed.

6. Learned counsel for the State further submits that A.C.P. scheme is of the year 2003 in which passing the departmental examination is an essential condition for the Government employee and since, the husband of the petitioner has failed to clear the departmental examination during his service tenure, therefore, the petitioner cannot claim the benefit of A.C.P.

7. In the light of the submissions made, this Court is not inclined to grant any relief to the petitioner and therefore, the present writ application stands dismissed.

(Dr. Anshuman, J)

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