IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18855 of 2019

Nadra Praveen, wife of Late Md. Shabir, resident of Mohalla- Islam Nagar, Bhikhanpur, Gumati No. 3, Block- Jagdishpur, P.O. and P.S. Bhagalpur, District- Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
5. The District Magistrate, Bhagalpur -cum- District Treasury Officer, Bhagalpur -cum- Chairman, District Compassionate Committee, Bhagalpur, District- Bhagalpur.
6. The Senior Deputy Collector (Establishment), Bhagalpur, District- Bhagalpur.
7. The Treasury Officer, Naugachhia Sub- Treasury, District- Bhagalpur.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S. B. K. Manglam, Advocate Ms. Anita Kumari, Advocate
For the Respondent/s	:	Mr. Dhurendra Kumar, AC to GP- 5

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 16-07-2025

Heard Mr. S. B. K. Manglam, learned Advocate for the petitioner and Mr. Dhurendra Kumar, learned Advocate for the State.

2. The petitioner is aggrieved with the order, as contained in Memo No. 1647 dated 25.10.2018, issued under the signature of respondent no.6 whereby the petitioner has been informed that since the services of her husband could not have been absorbed in the Collectorate services until his death on

22.05.2018, she would neither be entitled for the benefit of compassionate appointment nor she would be entitled for family pension.

3. Mr. S. B. K. Mangalam, learned Advocate for the petitioner referring to the averments made in the writ petition has contended that admittedly the petitioner’s husband discharged his continuous and unblemished service in the Bihar Textile Corporation and on account of the Corporation having been declared non-functional, the services of the erstwhile employees, including the petitioner’s husband, was deputed in Bhagalpur Treasury, as a Lower Division Clerk, vide Memo No. 49 dated 21.02.2002.

4. Referring to Annexure-P/1, he submits that admittedly the petitioner’s husband was allowed to work till his death on 22.05.2018 in the Bhagalpur Treasury. In the meanwhile, the Government of Bihar, in the Department of Finance vide its Resolution contained in Letter no. 796 dated 02.02.2018 has taken a conscious decision to absorb the services of the employees of the Board, Corporation and the Society in different departments of the State Government. In pursuant to the aforesaid policy decision, other identically situated persons, who were working in the Corporation and different Boards, their

services have been absorbed.

5. It is the specific case of the petitioner that an identically situated person, who was also working in the Textile Corporation, namely, Pawan Kumar, whose service was also deputed along with the petitioner's husband in Bhagalpur Treasury, has been absorbed in the Collectorate, Bhagalpur vide order as contained in Memo No. 208 dated 06.02.2019. Had the absorption been made just after coming into force of the policy decision and before the death of the petitioner's husband, his services would have certainly been absorbed and the petitioner would have been entitled to get compassionate appointment and other retiral benefit, but only on account of the laches on the part of the respondent authorities, the petitioner has been deprived from her rightful claim. To support the aforesaid contention, reliance has also been placed on a decision rendered by the learned Division Bench of Bombay High Court in the case of **All India Groundnut Syndicate Ltd. Vs. I.T. Commissioner, Bombay**, reported in, **AIR 1954 Bom. 232** wherein the Court held as follows:

> "But the most surprising contention is put forward by the Department that because their own officer failed to discharge his statutory duty, the assessee is

deprived of his right which the law has given to him under Sub-section (2) of Section 24. In other words, the Department wants to benefit from and wants to take advantage of its own default. It is an elementary principle of law that no person--we take it that the Income-tax Department is included in that definition--can put forward his own default in defence to a right assert -ed by the other party. A person cannot say that the party claiming the right is deprived of that right because "I have committed a default and the right is lost because of that default."

6. Further reliance has also been placed on a decision rendered in the case of **State of Maharashtra vs. Jagannath Achyut Karandikar**, reported in **AIR 1989 SC 1133** wherein the Apex Court has held as follows:

xxx It would be unjust, unreasonable and arbitrary to penalise a person for the default of the Government to hold the examination every year. That does not also appear to be the intent or purpose of the 1962 Rules. xxx

7. On the other hand, Mr. Dhurendra Kumar, learned Advocate for the State submitted that the facts are admitted that the husband of the petitioner was the employee of the Textile Corporation and he was deputed to the Treasury

Office, Bhagalpur. However, by the time his services could have been absorbed in the regular services of State Government, in the light of policy decision of the State Government, as contained in Letter no. 796 dated 02.02.2018, he unfortunately died and, as such, there cannot be any absorption of the services of the petitioner. Referring to the Resolution, he further submitted that there is a specific stipulation that absorption shall be made effective with effect from the date of issuance of the absorption order and not with effect from the policy decision. In case, said Pawan Kumar, with whom the petitioner is seeking parity, admittedly his service was absorbed vide letter as contained in Memo No. 208 dated 06.02.2019, much after the death of the husband of the petitioner, who died on 22.05.2018. The absorption letter of Pawan Kumar also suggests that the same has been made effective with effect from the date of absorption letter and not from the date of policy decision.

8. Having heard the learned Advocate for the respective parties and considering the materials available on record, this Court is of the view that the entire claim of the petitioner is based on assumption that in case the petitioner's husband would have been absorbed immediately pursuant to Resolution No. 796 of the Finance Department, dated

02.02.2018, he would have been entitled to get all the benefits at par with other employees of the Corporation, whose servies were absorbed later on. The policy decision, as has been taken by the State Government was made with respect to all the Board, Corporation and Society. However, to implement the policy decision, a decision is required to be taken at the level of each and every department after completing all the required paraphernalia. In case of the Bihar Textile, Corporation with regard to Pawan Kumar, with whom parity has been sought for, the decision has been taken by the Establishment Committee on 06.02.2019 and accordingly his services were absorbed in the State Government. There is no material on record, which suggests that any of the employees, whose services were absorbed subsequent to the policy decision and it has been made effective from the date of policy decision; rather the policy decision is crystal clear that all the absorption shall be made effective with effect from the date of issuance of the order of absorption and not with effect from the date of issuance of policy decision.

9. This Court also finds that there is no laches on the part of the State Government, inasmuch as no material has been placed on record that there was any stipulation in the

policy decision that the decision of absorption of the employee of the Textile, Corporation and Board is required to be taken in a limited period; hence, with due regard to the decisions cited by the learned Advocated, the same are not applicable in the facts of this case.

10. In view of the aforesaid fact, this Court does not find any merit in the writ petition. Accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
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