

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4823 of 2022

Meera Kumari Wife of Late Ram Kumar Prasad @ Late Raj Kumar Prasad
C/o Rajeshwari Prasad, Resident of Mohalla- Ghughari Tarh, Chand Choura,
Police Station-Vishnupad, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Engineer-cum-Special Secretary, Public Health, Engineering Department, Bihar, Patna.
3. The Superintendent Engineer, Public Health Engineering Department, Bihar, Patna.
4. The Superintendent Engineer, Public Health Engineering Circle, Bhagalpur.
5. The Executive Engineer, Public Health Division, Bhagalpur, East, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vipin Kumar Singh, Advocate Mr. Akshansh Ankit, Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal (SC-4)

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 07-07-2026 Heard learned counsel for the parties.

2. The petitioner has filed the instant application for
the following relief (s) :-

*“i) For issuance of writ in the nature
of mandamus or any other appropriate writ for
commanding the respondent authorities to grant
benefit of old pension scheme in favour of the
petitioner; in light of letter dated 02.12.2021
contained in letter no. 2368 issued by the
Executive Engineer, Public Health Engineering
Department, Bihar, Patna.*

ii) For issuance of any other writ,



order and/or direction which your Lordships may deem fit in the facts and circumstances of the case.”

3. The case of the petitioner in brief is that her husband who was working as a Pump Operator in the Public Health Department, Gaya having died in harness on 2.1.2002, the petitioner applied for appointment on compassionate ground. Her application was recommended by the Compassionate Committee on 1.10.2003 and finally on her appointment, she gave her joining on 17.5.2006 on the post of Lower Division Clerk, Public Health, Engineering Department, Circle Bhagalpur.

4. Learned counsel for the petitioner submits that the District Compassionate Committee had recommended the name of the petitioner for appointment on compassionate ground on 1.10.2003. She should have been appointed soon thereafter instead her appointment having taken place in the year 2006, she has been placed under the New Contributory Pension Scheme which came into effect on 1.9.2005. Learned counsel submits that the respondents should place the petitioner under the Old Pension Scheme and cannot take the benefit of their own fault in delaying the appointment of the petitioner.

5. The application is opposed by learned counsel



appearing for the State of Bihar. Referring to the counter affidavit sworn by the Superintending Engineer, Bhagalpur, it is submitted that the petitioner was appointed and joined service on 17.5.2006 on the post of Lower Division Clerk in PH Circle, Bhagalpur.

6. It is the case of the respondents that the petitioner gave her consent to be inducted in the New Pension Scheme without any protest and as such cannot re-agitate the matter by filing the instant application.

7. The relevant paragraph nos. 17 and 21 of the counter affidavit is reproduced herein below for ready reference :

“17. That at the time of her joining the petitioner gave her consent to be inducted in New Pension Scheme without any protest and she remained fence sitter for almost 16 years and now she raise her grievance in light of certain order passed by this Hon'ble Court, which cannot be allowed at the fag end of the service of the petitioner.

21. That since the petitioner has accepted to be included in new pension scheme without any protest as such at the fag end of her service she cannot claim to be included in Old Pension Scheme.”

8. Having heard learned counsel for the parties and



having perused the material on record including the counter affidavit of the respondents, the undisputed fact being that the petitioner having been appointed on compassionate ground joined her service much after the cut-off date of 1.9.2005 on 17.5.2006 as also in view of the statement made in paragraph nos.17 and 21 of the counter affidavit quoted herein above and which remains unrebutted, in the opinion of the Court, the petitioner has not made out a case for grant of Old Pension Scheme.

9. The Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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