

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8243 of 2024**

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Lal Jha W/o Late Birendra Nath @ Birendra Nath Jha, Resident of- Near D.A.V. School, 103, Madhukans, Plot No. 133/134, Sec-10, New Panvel, Panvel Raigad, Maharashtra.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Govt. of Bihar, New Secretariat, Patna.
4. The Vice- Chancellor, L.N. Mithila University, Darbhanga.
5. The Registrar, L.N. Mithila University, Darbhanga.
6. The Finance Officer, L.N. Mithila University, Darbhanga.
7. The Principal, B.M. College, Rahika, District- Madhubani.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-----------------------------------|
| For the Petitioner/s | : | Mr. Shashi Bhushan Singh, Adv.    |
| For the State        | : | Mr. S.D. Yadav, AAG-9             |
|                      |   | Mr. Anil Kumar Verma, AC to AAG-9 |
| For the L.N.M.U.     | : | Mr. Bindhyachal Rai, Adv.         |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**Date : 27-01-2026**

Heard Mr. Shashi Bhushan Singh, learned Advocate for the petitioner, Mr. S.D. Yadav, learned Advocate for the State and Mr. Bindhyachal Rai, learned Advocate for the L.N. Mithila, University.

2. A very sorry state of affairs has been placed before this Court. The petitioner, who is a hapless widow of erstwhile employee, namely, Birendra Nath @ Birendra Nath Jha, has approached this Court seeking quashing of the Memo no.594



dated 20.02.2023 issued under the signature of respondent no.3, whereby the appointment of the husband of the petitioner along with some others has been held illegal. The petitioner also sought quashing of the consequential order contained in Memo no.SC/48/23 dated 22.02.2023 issued by the respondent no.5, whereby the payment of pension and other benefits have been stopped in view of the afore-noted letters.

3. Brief facts as required for adjudication of the matter, are as follows:-

4. Admittedly, the husband of the petitioner was appointed against the second post of Lecturer in the year 1978, to be more specific on 30.11.1978, in the Department of Philosophy, Bharti Mandal College, Rahika, Madhubani, on the recommendation of the Selection Committee constituted by the Governing Body of the College. Later on, based upon the recommendation of Three Men Committee, his service was regularized by the order of Hon'ble Chancellor under Memo No.3652-61/62 dated 26.09.2016 after due approval of the Syndicate. The husband of the petitioner, after serving more than 25 years, came to be superannuated on 31.07.2003 and has been allowed pension and other benefits. Unfortunately, the petitioner's husband died on 10.10.2014 and thereafter the



petitioner has been getting family pension uninterruptedly. All of a sudden, after two decades of the retirement of erstwhile employee, the respondent no.3 came up with the impugned order as contained in Memo no.594 dated 20.02.2023, whereby it is said that the appointment of the petitioner's husband along with other 16 persons were not made against the vacant and sanctioned posts by following the due selection process and their cases are not in terms with paragraph-44 of the Constitution Bench of the Apex Court rendered in the case of **Secretary, State of Karnataka & Ors. v. Uma Devi & Ors. [2006 (4) SCC 1]**.

5. The afore-noted impugned order was also put to question by some of the identically situated persons in CWJC No. 9131 of 2022 along with another analogous case. Both the writ petitions were heard by this Court and finally the impugned order came to be set aside vide order dated 12.01.2024, so far as it relates to the petitioners of the said cases.

6. A counter affidavit on behalf of respondents no.1 to 3 has been filed on 08.07.2024. But this Court is appalled to see that there is no discussion with respect to the order passed by this Court dated 12.01.2024 in CWJC No. 9131 of 2022, whereby the impugned order dated 20.02.2023 has already been



set aside with respect to other identically situated persons. The counter affidavit has been filed in support of the impugned order contained in Memo no. 594 dated 20.02.2023 on the identical grounds that the very appointment of the petitioner's husband was not made against the sanctioned post and without following the due selection process and thus her regularization as well as her appointment was bad. It has further been stated in para-19 that the order passed in CWJC No. 9131 of 2022 and analogous case is not applicable in the present writ petition. However, the respondent(s) has not clarified as to why the same is not applicable when the case of the petitioner is exactly similar to those in whose favour the order has been passed and the impugned order has been set aside.

7. This Court has also been apprised that the Committee consisting of five senior officers, headed by the Chief Secretary of the State of Bihar, has also taken a decision to ensure the compliance of the order of this Court passed in CWJC No. 9131 of 2022 along with another analogous case and the consequential benefits have been accorded accordingly to the petitioners of the said writ petition(s).

8. Having considered the submissions advanced by the respective parties and taking note of the fact that the



impugned order contained in Memo no.594 dated 20.02.2023 issued under the signature of the respondent no.3 as well as the consequential orders have already been set aside with respect to the identically situated persons, there is no need for further adjudication of the matter. No such order would sustain against an employee who had already been superannuated two decades ago and died nine years before the impugned order is passed. Accordingly, the impugned order as contained in Memo no.594 dated 20.02.2023 passed by the respondent no.3 as well as Memo no. SC/48/23 dated 22.02.2023 passed by the respondent no.5, are hereby set aside.

9. The respondents are directed to extend all the consequential benefits, including the arrears of pension to the petitioner forthwith, in any case within eight weeks.

10. The writ petition stands allowed.

**(Harish Kumar, J)**

rohit/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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