

**Most. Indu Devi and anr. Vs. State of Bihar and ors.**

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**Court :** Patna

**Decided On :** Jan-24-2005

**Judge :** Barin Ghosh, J.

**Acts :** Service Law

**Appeal No. :** CWJC No. 12087 of 2003

**Appellant :** Most. Indu Devi and anr.

**Respondent :** State of Bihar and ors.

**Prior history :** Barin Ghosh, J. 1. Heard learned counsel for the parties. 2. Late Anirudh Prasad Sah, who died on 16th December, 2001, was appointed as P.A.C.S. Manager in the year 1977. Such Managers collectively filed a writ petition which was registered as CWJC No. 2312 of 1991. In that writ petition, they sought absorption against equivalent post in any other department of the State Government. The claim was founded on the basis of the decision of the State Government dated 6th September, 1986. The clai

**Judgement :**

**Barin Ghosh, J.**

1. Heard learned counsel for the parties.

2. Late Anirudh Prasad Sah, who died on 16th December, 2001, was appointed as P.A.C.S. Manager in the year 1977. Such Managers collectively filed a writ petition which was registered as CWJC No. 2312 of 1991. In that writ petition, they sought absorption against equivalent post in any other department of the State Government. The claim was founded on the basis of the decision of the State Government dated 6th September, 1986. The claim so put forward in that writ petition reached finality on 20th August, 1993 when Hon'ble Supreme Court in Civil Appeal No. 7357 of 1996 delivered its judgment. In terms thereof, the said Managers as that of late Anirudh Prasad Sah became entitled to appear at three examinations to be conducted by the Bihar Public Service Commission for being absorbed in the regular establishment of the State in the posts which will be suitable for such Managers. For such Managers, the standard of test as was prescribed by the Hon'ble Supreme Court was different from the standard of test normally prescribed for the direct recruits. However, upon the judgment was rendered by the Supreme Court, an advertisement was published inviting applications from such Managers for being absorbed in class III posts of the regular establishment of the State Government. Late Anirudh Prasad Sah responded to the said Advertisement and thereupon sat at the examination held on 18th December, 2000 pursuant to the said advertisement. Before the result of the examination was published, but after approximately one year from the date of the examination, late Anirudh Prasad Sah died on 16th December, 2001. On 4th April, 2002 the result of the examination was published when it appeared that late Anirudh Prasad Sah has succeeded in the said examination and accordingly became entitled to be absorbed in the regular establishment of the State Government. On 8th June 2002, late Anirudh Prasad Sah was asked to join the post on being absorbed in the regular establishment of the State but he could not do so inasmuch as much prior thereto he died. On 24th April, 2002, the petitioner No. 1 being the wife of late Anirudh Prasad Sah applied to the District Magistrate for appointing petitioner No. 2 on compassionate ground for late Anirudh Prasad Sah died. The fact remains that the application so made has not been decided one way or other.

3. In the counter-affidavit filed by the State it has been contended that since late Anirudh Prasad Sah did not join the post on being absorbed, he was not a

Government employee as on the date of his death and accordingly, son of petitioner No. 1 cannot be accorded compassionate appointment.

4. As I see from the judgment of the Hon'ble Supreme Court that by reason thereof success in the examination to be held gave right to be absorbed. There is no dispute that late Anirudh Prasad Sah succeeded in the examination held on 18th December, 2000 although the result thereof was declared on 4th April, 2002. In a situation of this nature, if the delay in publication of result debars the family of late Anirudh Prasad Sah to take advantage of the compassionate appointment, then that would tantamount to permit the respondents to take advantage of their own sluggishes. There is no just reason why the result could only be published on 4th April, 2002 and not immediately after 18th December, 2000 and in particular before 16th December, 2001 when late Anirudh Prasad Sah died.

5. In such situation, I allow this writ petition and direct Compassionate Committee, Vaishali to consider and decide the application of the petitioner No. 1 for Compassionate appointment of petitioner No. 2 in light of the above observations as quickly as possible but not later than eight weeks from the date of service of a copy of the order upon the said Committee. This disposed of the writ petition. No order as to costs.

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