

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.** 2293/12

Case of **ANITA DEVI**

Applicant's husband Shiv Pujan Tiwari – a Research Assistant in the Road Construction Department – died while in service on 8.3.2013. There is no dispute that he was entitled to two ACPs which were, in fact, granted but after inordinate delay. Monetary benefits of the ACPs were paid after further delay. While it took four years to notify the promotion on 26.4.2007, the monetary benefits were paid in August 2008 i.e. after another five years. In other words, the actual benefit of the promotions was made available to the applicant after more than nine years of her husband's death. In the circumstances, the Commission observed vide orders dated 7.12.2012, 27.2.2013 and 1.4.2013 – that the applicant deserves to be awarded monetary compensation recoverable from the officers responsible for the delay.

The matter was finally heard in presence of Shri Gyan Chandra, Joint Secretary, Road Construction Department, Sri Lakshmi Narayan Das, Chief Engineer, Central Design Organization – of the Road Construction Department, and Sri Satya Narayan Mahto, Superintending Engineer, South Bihar Circle of the Building Construction Department on 15.4.2013. The applicant also was present.

The departmental representatives stated that although the Government Order regarding ACPs was issued on 25.6.2003, a doubt arose about the entitlement of the erstwhile employees of the work-charged establishment absorbed in the regular cadre, and clarificatory order was issued on 23.3.2006. Sanction order in favour of the applicant's husband was issued on 26.4.2007. On 31.7.2008, a revised order was issued. Shri Lakshmi Narayan Das stated that payment in the light of the order dated 31.7.2008 was to be made by Superintending Engineer, South Bihar Circle of the Building Construction Department, and for the subsequent delay, the Road Construction Department cannot be blamed. The stand of Sri Satya Narayan Mahto, SE, South Bihar Building Circle, was that the order dated 31.7.2008 was never communicated to his office by the Road Construction Department. It was the applicant who produced copy of the order. Since the order was produced by the applicant, it was thought proper to get confirmation from the Road Construction Department which again took some time. After the Road Construction Department confirmed the order, payment was made in August 2012.

The Commission is of the view that in absence of record showing communication of the order dated 31.7.2008 (supra) by the Road Construction Department, the blame primarily rests with it but the Building Construction Department also cannot be exonerated.

Being of the view that the applicant deserves to be monetarily compensated the only question is how the burden of compensation should be shared/apportioned. Having given due consideration to the question the Commission comes to the conclusion that the applicant should be paid rupees forty thousand as compensation out of which rupees thirty thousand should be paid by the Road Construction Department and ten thousand should be paid by the Building Construction Department. Payment should be made within six weeks of receipt of copy of this order.

It is open to the Principal Secretary of the two Departments to recover the amount from the officers responsible for the delay.

Put up in the second week of May 2013 awaiting compliance.

Copy of this order may be sent to (i) applicant (ii) Principal Secretary, Road Construction Department and (iii) Principal Secretary, Building Construction Department.

Date: 17.04.2013

Justice S.N. Jha
Chairperson