

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20019 of 2011

Mahtab Alam Son of Late Sayyaid Alam resident of village-Kirtaul, P.O.-
Khidirchak, P.S.-Teghra, Distt.-Begusarai.

.... Petitioner

Versus

1. The State of Bihar represented through the Principal Secretary, Deptt. of Human Resources, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Superintendent of Education, Begusarai.
4. The Treasury Officer, Begusarai.
5. The Accountant General, Bihar.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Vivekanand Prasad Singh, Advocate
For the A.G. Bihar : Mr. Satyendra Kuamr Jha, Advocate
For the State : Mr. Ashok Kumar, S.C.11

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 07-12-2015

Heard learned counsel for the parties.

Pursuant to order dated 02.12.2015, the respondents
no.1, 2 and 3 are present.

The writ petition has been filed by the petitioner who
claims to be the one of the sons of the deceased employee seeking a
direction upon the respondents to pay the family pension due to her
late mother.

Supplementary counter affidavit has been filed on behalf
of the respondent no.1 in which copies of the nomination made by the
late father of the petitioner with regard to pension and gratuity have

been brought on record with go to indicate that the name of only three sons of the deceased employee have been disclosed and there is no mentioning of the mother of the petitioner showing her to be the wife of the deceased employee.

Learned counsel for the petitioner has tried to demonstrate the fact that the mother of the petitioner was alive in the year 2000 when his father died and thereafter she died in the year 2011 without receiving any family pension. However, the materials relied upon by the petitioner were neither before the respondents nor there has been a declaration by a Civil Court of competent jurisdiction with regard to a finding on the issue. This is all the more relevant in view of the fact that as per the stand of the respondents the mother of the petitioner never approached the Department for grant of family pension right from the year 2000 till her death in 2011 and only subsequent to her death the present writ application has been filed which, coupled with the fact that her name was not mentioned in whatever papers are available with the Department, the Department cannot be faulted in not acceding to such request for grant of family pension to the late mother of the petitioner.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, this Court is not in a position to pass any positive order in favour of the petitioner

with regard to grant of arrears of family pension which may have been payable to his late mother.

Accordingly, the writ petition stands disposed off.

However, in the event the petitioner approaches the Civil Court of competent jurisdiction for a declaration that his mother was the wife of the deceased and also with regard to the period for which she was alive after the death of her father, and gets an order to such effect, he shall be free to approach the Department based on such decision of the Court for grant of arrears of family pension which may have been due and payable to his late mother. It also goes without saying that if such a case is filed, the concerned Court shall consider disposing off the same expeditiously in view of the issue being quite old.

The personal appearance of the respondents no.1, 2 and 3 stand dispensed with.

(Ahsanuddin Amanullah, J)

N.H./-

U			
---	--	--	--