

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23 of 2015

=====

Charley Lazarus Son of Late Lazarus Sextus Resident of Mohalla - Church
Road Bettiah, P.S- Bettiah Town, District - West Champaran at Bettiah.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, West Champaran at Bettiah.
5. The District Programme Officer (Establishment), West Champaran at Bettiah.
6. The Headmaster, Mission Middle School, Bettiah, West Champaran at Bettiah.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

5 03-08-2015 Heard learned counsel for the petitioner and
learned AC to SC-2 for the State.

The present writ application has been filed seeking direction to the respondents to pay the amount of earned leave to the petitioner who retired from the services of Mission Middle School in the district of West Champaran at Bettiah.

Learned counsel submits that subsequent to retirement on 31.08.2013, the petitioner was paid various post retiral dues except for encashment of his earned leave. It is submitted that as the policy of the Government stands, the



service of the teachers of aided minority schools have been granted post retiral benefits which includes encashment of earned leave. Learned counsel refers to a decision of the Jharkhand High Court in the case of Mariyam Tirkey W.P. (S) No. 506 of 2013 and other analogues writ petitions dated 03.01.2014 by which a Division Bench of the Court has negated the stand of the State that in light of the policy of the State Government contained in Letter No. 23/B 1-42/82 C 68 dated 06.06.1983/29.06.1983, the teachers of such school would only be granted pension including Family Pension, Gratuity and Provident Fund but excluding Group Insurance, Encashment, Earned Leave etc. Learned counsel submits that the counter of the State is also misplaced since the policy of the State of 1983 has been relied upon whereas in the year 1990 under departmental Memo No. 12/B 4-02/89-237 dated 20.02.1990, all post retiral benefits have been made payable to teachers of aided minority schools. Learned counsel submits that the said memo clearly indicates that the resolution has been approved by the Finance Department as well as the Cabinet. Learned counsel has also relied upon a circular of the Government of Bihar, Education Department contained in letter No. 12/B-8-58/87C 645 dated 31.07.1987 by which the petitioner was already getting the benefit of earned leave.

Learned counsel for the State has not been able

to demonstrate as to how the resolution of the year 1983 is still applicable in the present case in light of the two later circulars of the State Government of the years 1990 and 1987 referred above.

This Court finds substance in the submissions of learned counsel for the petitioner and also finds that the judgment of the Division Bench of the Jharkhand High Court squarely covers the issue involved in the present case.

Accordingly, the application succeeds. The respondents are directed to pay the leave encashment amount as per the entitlement of the petitioner within a period of two months from the date of production of a copy of this order before respondent no. 4.

(Ahsanuddin Amanullah, J.)

P. Kumar

U		T	
---	--	---	--