

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.313 of 2015

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Shah Intaquam Baquer Son of Late Mohammad Taqui Residing of village -
Mohiuddinpur, P.O. and P.S. Habibpur, District - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar,
Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The District Education Officer, Begusarai
5. The District Programme Officer, Begusarai
6. The Treasury Officer, Begusarai
7. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Indeshwari Prasad Mandal, Adv
For the State : Mr. Satish Narain Singh AC to GA2
For the A.G. Bihar. : Mr. Satyendra Kumar Jha, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 12-03-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ
application reads as follows:-

*“For a direction upon the respondents to grant due
final family pension of the mother of petitioner along with
arrears of revised family pension admissible to mother of
petitioner who dies on 19.05.11 though she withdrew her
provisional family pension up to November 2010.*

*Further for a direction to grant family pension to the
petitioner who is handicapped and was/is fully dependent on
his father and mother.”*

Let it be noted that this writ application was filed
on 06.01.2015, but no counter affidavit has been filed in
a period of more than two months despite indulgence
given to the learned counsel for the State by order dated

10.02.2015, relevant portion whereof reads as follows:-



“Learned counsel for the petitioner relies on a State Government circular contained in Memo No. PP-11-1025/75/1884F dated 19.3.1975 which according to him lays down that if the son or daughter of a deceased Government servant is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 18 years in the case of the son and 21 years in the case of the daughter, the family pension shall be payable to such son or daughter for life on certain terms and conditions. According to the learned counsel for the petitioner, the petitioner being 80% physically handicapped fulfils the requirement laid down in the aforementioned circular dated 19.3.1975.

Learned counsel for the State prays for and is allowed four weeks time to file counter affidavit.

Put up this case after four weeks.”

As would be evident, the petitioner claims family pension on the ground of his physical disability. Learned counsel for the petitioner relies on a circular dated 19.03.1975, but the respondents have not even cared to explain the applicability of the aforementioned circular.

In that view of the matter, this Court would direct the respondent no. 2, the Principal Secretary of the Education Department to decide the claim of the petitioner for grant of family pension keeping in view that the father of the petitioner late Md. Taqui was working in the Teachers Training College, Begusarai as

a Project Officer.

In order to expedite this process, the consideration of the case of the petitioner, this Court would give liberty to the petitioner to file a representation enclosing the evidence of his disability as also the copy of the Government circular dated 19.03.1975, whereafter the respondent no. 2 shall take a final decision within a period of three months from the date of filing of the aforementioned representation of the petitioner.

Let it be made clear that this Court in absence of any assistance from the learned counsel for the State who also is handicapped on account of his being given no instruction by the respondents, has not decided the issue of grant of family pension and the respondent no. 2, therefore must accordingly examine the Government decision for grant of family pension to the petitioner.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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