

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.455 of 2012

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Medni Prasad Singh Son Of Late Bhup Narayan Singh Resident Of Village
- Madhaiya Chak, Post - Vanhara, Police Station - Haveli Kharagpur,
District Munger

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Munger Division, Munger, At and P.O. Munger
3. The District Magistrate, Munger , At & PO Munger
4. The District Superintendent Of Education, Munger, At and PO Munger
5. The District Superintendent Of Education, Jamui, At and PO - Jamui
6. The District Provident Fund Officer, Munger, At and PO- Munger
7. The District Provident Fund Officer, Jamui, At and PO - Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

9 28-01-2015 Heard Mr. Umakant Shukla, learned counsel for the
petitioner and learned A.C. to S.C.-17 for the State.

The issue which still remains to be adjudicated is
whether the Provident Fund due to the late wife of the petitioner
should carry interest from the date when it became due till the

time it was paid or not.

Learned counsel for the petitioner has submitted that upon the death of the wife of the petitioner on 10.07.1986, he had applied to the District Superintendent of Education, Munger on 22.12.1986 raising all claims and also submitting such claim in the prescribed proforma. In support of the same, copy of such application has been made Annexure-9. Further, it is submitted that Provident Fund for the period 06.05.1968 to 1976 has not been made. Learned counsel submits that the same is the case with regard to the payment of Provident Fund of the petitioner as both he and his wife were school teachers. In the case of the petitioner the period for which the Provident Fund has not been paid is January, 1971 to February, 1977 and had been deposited in the T.P.F. account with the local Post Office. As per the stand taken by the respondents in their counter affidavit, though it is accepted that the petitioner had applied with regard to the benefits due to his late wife in the year 1986 but it was not in the prescribed proforma and thus the concerned Headmaster and Drawing and Disbursing Officer had forwarded the same on 13.08.2005. Except for the statement made that though application of the petitioner dated 22.12.1986 was received but the same was not in the



prescribed proforma and straightaway taking the stand that it has been signed by the Incharge Headmaster of the school and the concerned Drawing and Disbursing Officer on 13.08.2005, without disclosing as to when the application in the prescribed proforma was submitted clearly indicates that the respondents have not come up with proper facts before the Court. There being nothing to indicate that the authority had asked the petitioner to submit any further application in the prescribed proforma pursuant to his initial application on 22.12.1986 on the one hand while on the other hand admitting that it has been signed on 13.08.2005 by the authorities indicates that the petitioner had in fact discharged his onus by submitting the application in prescribed proforma. Learned counsel has also relied upon the decision of a co-ordinate Bench of this Court dated 14.05.2013 in **CWJC No. 4668 of 2006 (Sri Narayan Singh vs. The State of Bihar and Others)**, in which it has been held that the petitioner would be entitled to interest for the entire gap period relying on the circular of the State Government (Finance Department) contained in Letter No. G.P.F.-01-562/2001/1557 dated 12.02.2002 which stipulates that in the case of a non-gazetted employee getting the prescribed proforma filled up and completing the formalities is the responsibility of the

gazetted officer concerned, which in the present case was the then District Superintendent of Education, now the District Programme Officer (Establishment).

In view of the aforesaid, this Court holds that the respondents have been unable to convince the Court that there has been any lapse on the part of the petitioner for delay caused in payment of Provident Fund to the late wife of the petitioner in the year 2011. Accordingly, it is held that the petitioner shall be entitled to the statutory interest on the Provident Fund from 22.12.1986 till the date of actual payment. The respondents shall also be obliged to furnish detailed calculation chart in this regard to the petitioner along with the payment. The petitioner shall also be entitled to statutory interest with regard to his Provident Fund from the date he submitted the form till the date it was actually paid as nothing has been brought on record to indicate any laches or fault on his part. The authority shall furnish detailed calculation chart with regard to the payment of Provident Fund of the petitioner also.

As far as the question of payment of Provident Fund for the periods indicated above have been denied on the ground that the Pass Book has not been furnished by the petitioner before



the Post Office, learned counsel for the petitioner has drawn the attention of this Court to Annexure-11 which is the Government Circular dated 05.11.1969 which clearly stipulates that Postal Provident Fund account of the individual shall be opened in the Post Office and the Pass Book shall be kept with the Block Development Education Officer.

In view of the above, it is clear that the wife of the petitioner having died in harness, her deductions and deposition of Provident Fund account obviously was being maintained by the concerned officer who as per the circular contained in Annexure-11 was also custodian of the Pass Book. Thus, the concerned authority of the State shall ensure that the payment of the period for which the Provident Fund has been denied on the ground that the Pass Book has not been produced is so done, after completing the formalities by the concerned officer for which the petitioner shall not be called upon to provide the Pass Book which in view of the relevant Government instructions is supposed to be kept by the authority. Such payment shall also be made to the petitioner both for himself as well as for his late wife of the periods indicated hereinabove.

The exercise be completed within two months from

the date of receipt/production of a copy of this order on the respondents no. 6 and 7.

The writ application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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