

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5814 of 2013

IN

Civil Writ Jurisdiction Case No. 17586 of 2012

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Mostt. Urmila Devi W/O Late Ramkhelawan Rai Resident Of Village Makandpur,
P.O. Rannuchak Makandpur, P.S. Akbarnagar, District Bhagalpur At Present
Address Dr. Ashok Kumar Singh Chitrangan Seva Sadan Purani Bazar, P.S. +
District Lakhisarai Petitioner

Versus

1. The State Of Bihar through Principal Secretary-Cum-Commissioner, Human Resources Development Department, Govt. Of Bihar, Patna Namely Mr. Amarjit Sinha.
2. The Accountant General Bihar, Patna Mr. I.D.S. Dhariwal.
3. Director-Cum-Joint Secretary, Primary Education, Bihar, Patna Namely Mr. Ram Bujhaban Singh.
4. D.E.O., Dumka (Jharkhand) Namely Mr. Shiv Charan Marandi.

..... Respondents

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Appearance :

For the Petitioner : Mr. Pravina Rai, Advocate
For the State : Mr. Uday Prasad, AC to GP 22
For the AG : Mr. Jitendra Kumar Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT
Date: 30-11-2016

Heard learned counsel for the parties.

The petitioner is the second wife of one Ram Khelawan Rai, who retired from service on 31.03.1979, while serving as Sub-Divisional Education Officer, Dumka, who died on 26.07.1992 leaving behind his two widowed wives, namely, Most. Bachchi Devi and the present petitioner. Bachchi Devi was married in the year 1934 and this petitioner was married in the year 1950. After death of the husband, both the widows were getting equal family pension. After death of the first wife on 02.03.2003, the pension was even stopped to the present petitioner, as such she moved this



Court in writ jurisdiction, being C.W.J.C. No. 17586 of 2012. She also challenged the order, dated 13.12.2010, passed by the Principal Secretary, Human Resource Development Department, The writ application was allowed in the following terms:-

“In view of decision of this Court, the Finance Department withdrew the said Scheme contained in Clause 7(iii) of circular dated 3.9.1964 vide memo no.423 dated 5.4.2010, provided the deceased wife has not left behind eligible issue. As the circular which prohibited apportionment of family pension received by the first wife on her death to the second wife has been withdrawn by the government, the respondents are directed to sanction and authorize the balance amount of family pension to the petitioner who is surviving wife of deceased Ram Khelawan Rai, provided the first wife has not left any issue eligible to receive the same. The respondent authorities would take appropriate steps accordingly.

In the result, this writ application is allowed and the order dated 13.12.2010 as contained in memo no.2359 passed by the Principal Secretary, Human Resource Development Department, Government of Bihar is set aside.”

Learned counsel for the petitioner submits that only after filing of the aforesaid contempt application, the petitioner has been paid arrears of family pension and also getting the current pension. He submits that the opposite parties are liable to pay interest on the delayed payment in view of the Bihar Pension Rules itself.

In terms of order dated 13.12.2010, passed in C.W.J.C.No. 17586 of 2012, the State was obliged to pay the entire pension to the petitioner being the only surviving wife.



In other words, the petitioner was entitled to payment of the remaining other half of the pension which was paid to the first wife.

A show cause has been filed on behalf of opposite parties. In paragraph 8 opposite parties state that the Director cum Under Secretary, Education department, Bihar, Patna department has sought approval from the Accountant General, Bihar for transfer of 50% of the balance pension of first wife (since deceased) in favour of the petitioner vide Memo no. 1074 dated 18.9.2013. A copy of letter is contained as Annexure A to the show cause. However, learned counsel appearing for the petitioner submits that she would be entitled to statutory interest on the delayed payment of pension.

In view of specific averment in paragraph 8 of the show cause, I do not intend to proceed further with this contempt petition which is closed accordingly.

It will be open for the petitioner to place his grievance with respect to non payment of interest on delayed payment before appropriate forum.

(Samarendra Pratap Singh, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	6.12.2016
Transmission Date	

