IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1413 of 2015

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Sudama Devi Wife of Late Jhalakdeo Singh, Resident of Polsan Road, Digha, Patna Near Modern Public School, P.S. - Digha, District - Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. Accountant General, Bihar, Birchand Patel Path, Patna.
3. The Commissioner, Industry Department, Government of Bihar, Patna.
4. Director, Upendra Maharathi Udyogshilp Anusandhan Sansthan, Bihar Patna.
5. Deputy Director, Upendra Maharathi Udyogshilp Anusandhan Sansthan, Bihar Patna.
6. Deputy Development Officer, Upendra Maharathi Udyogshilp Anusandhan Sansthan, Bihar, Patna.
7. District Provident Fund Officer, Patna.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Mahasweta Chatterjee, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
		Mr. Pramod Kumar Singh, AC to SC-16
For Accountant General	:	Mr. Dhanendra Chaubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-12-2016

The instant writ petition has been filed by the petitioner for a direction upon the respondents to pay her post retiral benefits.

2. It has been contended by the learned counsel for the petitioner that the petitioner took training in bids making from

Shilp Anusandhan Sansthan, Patna. After completion of training, she was appointed as a helper in the bid making section of the Sansthan from 01.04.1965 as daily wage worker. On 29.05.1991, she was regularized against a sanctioned vacant post of Binder in the scale of Rs.800-1150/-. She retired from that post on 31.07.2014. It is contended that since the date of regularization, provident fund amount was regularly being deducted from her salary till April 2014. The grievance of the petitioner is that till date payment has not been made against her post retiral benefits.

3. The contention of the petitioner has been contested by the respondent- State by filing counter-affidavit. It has been stated that the claim of the petitioner to pay the post retiral dues is not permissible in view of the fact that a proceeding under Section 43(b) of the Bihar Pension Rules, 1950 was initiated against her on the charge of being appointed on the basis of a forged certificate. In the said proceeding, an order has been passed by the Director Industries, Bihar, Patna as contained in Annexure-A to the counter-affidavit whereby the entire pension, gratuity and leave encashment were forfeited.

4. In reply, leaned counsel for the petitioner has submitted that the aforesaid order passed by the Director Industries has been passed during the pendency of the writ petition and the

same has been challenged by filing an appeal before the Commissioner Industries, Bihar, Patna. The appeal has also been heard and an order has been kept reserved. She has further contended that in view of the order as contained in Annexure- A to the counter-affidavit filed on behalf of the State, the petitioner is not pressing her claim so far as the amount of pension, gratuity and leave encashment are concerned. As the same are now subject matter of the appeal. However, the order as contained in Annexure-A to the counter-affidavit would not entitle the respondents to forfeit the amount of GPF and Group Insurance Scheme payable to the petitioner. Under no circumstance, the said amount can be attached or forfeited.

5. In reply, learned counsel for the State has submitted that the said amount has not been paid to the petitioner in view of the opinion received from the Law Department.

6. Regard being had to the submissions made on behalf of the parties, I find the stand of the petitioner to be quite fair. There is substance in the argument that the amount of GPF and Group Insurance Scheme cannot be forfeited by the State under any circumstance.

7. In that view of the matter, I direct the respondents to make payment of the aforesaid amount within four

weeks from today failing which the petitioner would be entitled to pay interest @ 12 per cent per annum from the date it became due till the date of payment and the amount of interest shall be recovered from the officer who may be responsible for delay in making payment.

8. It is made clear that this Court has not adjudicated the claim of pension, gratuity and leave encashment in view of the fact that the same is *sub judice* before the appellate authority.

9. With these observations, the writ petition stands disposed of.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	…
Uploading Date	09.12.2016
Transmission Date	