IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1725 of 2016

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Reeta Devi, W/o Late Binay Kumar Singh, resident of village + P.O. Biratpur, P.S.- Sonbarsa Raj, District - Saharsa

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna, Patna
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The Regional Deputy Director of Education, Koshi Division, Saharsa
5. The District Education Officer, Saharsa
6. The District Programme Officer (Eastablishment), Saharsa
7. The Block Education Officer, Sonbarsa Raj, District- Saharsa
8. The Accountant General of Bihar, Birchand Patel Marg, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-07-2017

This writ application has been filed by the petitioner for commanding and directing the respondents to provide family pension as per revised matric trained scale of pay of deceased husband of the petitioner who died in harness.

2. The husband of the petitioner was initially

appointed as Assistant Teacher on 06.01.1981 and was posted at Primary School, Chakla in the Saharsa district. He died in harness on 13.01.2011. While in service, he was granted matric trained scale of pay vide order dated 08.04.2003 passed by the District Superintendent of Education, Saharsa. He was getting revised scale of matric trained till his lifetime. However, after his death, his pensionary benefit has been sanctioned in untrained scale of pay.

3. It has been submitted by the learned counsel for the petitioner that because of the arbitrary decision of the respondents, the petitioner is facing great financial hardship. He has submitted that in this regard several representations have been made by the petitioner to the respondents, but they have paid no heed to her request.

4. A counter affidavit has been filed on behalf of respondent no.6 wherein it is stated that though the deceased husband of the petitioner obtained training of one year, but he did not pass the Teachers Training Examination conducted by the Bihar School Examination Board, Patna during his service tenure. It is further stated that it was essential to pass the Teachers Training Examination to become a trained teacher and since he did not pass the said examination, he was not entitled to receive trained scale of pay. Though a copy of the counter affidavit was served to the

counsel for the petitioner on 18.11.2016, no rejoinder to the counter affidavit has been filed so far.

5. Regard being had to the stand of the parties, if the family pension and other benefits of the petitioner has been calculated and paid in matric untrained scale, no wrong can be found with the decision of the respondent-State, as the deceased-employee was wrongly getting benefit of matric trained scale during his lifetime. The deceased employee was ineligible for the matric trained scale, as he had not passed the Teachers Training Examination. Though, the respondents may not be entitled to make any recovery from the death-cum-retiral dues of pensionary benefit of the petitioner, but no fault can be found with the decision in rectifying the mistake and making payment of pension in matric untrained scale.

6. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2017
Transmission Date	NA