

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20930 of 2014

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Ahilya Devi Wife of Late Rajeshwar Prasad Singh, resident of Village - Chandna,
P.S.- Marhowrah, District - Saran

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Primary Education, Government of Bihar, New Secretariat, Patna
2. The Director, Primary Education, Patna
3. The District Magistrate, Saran at Chapra
4. The District Program Office Officer (Establishment), Saran at Chapra
5. The District Provident Fund Officer, Saran at Chapra
6. The District Treasury Officer, Saran at Chapra
7. The Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Manikant Mishra,

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2017

This writ petition has been filed by the petitioner for issuance of a direction to the respondents to pay the retiral benefits to the petitioner, which is due and has not been paid along with the statutory as well as penal interest.

2. It is contended by the learned counsel for the petitioner that the payment of up to date interest payable on GPF amount prior



to November, 1976 as well as the amount laying in suspense account of dearness allowance has not been settled so far. It is further contended that the petitioner had filed a writ petition in respect of the claim made in the present writ petition before this Court earlier vide CWJC No. 9538 of 2006. The aforesaid writ petition was disposed of by this Court vide order dated 26.09.2008 along with its analogous cases reported in **2008 (4) PLJR 2008**, but the order passed by this Court in the said writ petition has not been complied with till date.

3. The prayer made by the writ petitioner has been contested by the State. Learned counsel for the State has raised a preliminary objection regarding the maintainability of the writ petition. He has submitted that once an order has been passed by the writ court, for non-compliance of the same, second writ petition in the same subject matter would not be maintainable.

4. In reply, learned counsel for the petitioner contended that in any view of the matter, merely on technicality, the petitioner cannot be denied the relief, which he is otherwise entitled to. He has submitted that the fact of the matter is that the respondents have flouted the order passed by this Court in CWJC No. 9538 of 2006. Lastly, he would submit that in case the application is not maintainable, he may be granted liberty to file a contempt application for non-compliance of the order passed by this Court.



5. I have heard learned counsel for the parties and perused the record. It is not disputed that the prayer of the petitioner in CWJC No. 9538 of 2006 was same as in the present writ petition. The writ petition was disposed of with certain direction. The contention of the petitioner is that the direction issued by this Court in the said writ petition is being flouted. In my considered opinion, for non-compliance of the order of the Court, a second writ petition would not be maintainable. Even if the order passed by the Court is not complied with, the petitioner may have a remedy under the provisions of the Contempt of Courts Act, but he cannot maintain successive writ petitions in the same subject matter. Such an application would clearly be barred by the principle of *res judicata*.
6. In that view of the matter, the writ petition is dismissed as not maintainable. However, the dismissal of the writ petition would not preclude the petitioner from seeking his remedy under the Contempt of Courts Act.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.08.2017
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