

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.790 of 2015

=====

Vivek Kumar Pandey Son of Sri Balkeshwar Pandey C/O Sri Munna Sharma,
Resident of village Marhanpur (Baipass Road), P.S Civil Line, Dist- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director of Education, Education Department, Government of Bihar, Old Secretariat, Patna.
3. The Regional Deputy Director Education, Magadh Division, Gaya.
4. The District Education Officer, Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Satyaveer, Advocate

For the Respondent/s : AC to GP – 27

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-01-2017

Heard Sri Dharmendra Kumar Sinha, learned counsel, who was assisted by Sri Satyaveer, learned counsel for the petitioner and learned AC to GP No. 27.

The petitioner, claiming to be son of a deceased employee has approached this Court invoking its writ jurisdiction with a prayer to direct the respondents to quash an order contained in Memo No. 1083 dated 30.12.2013 passed by the Regional Deputy Director Education, Magadh Division, Gaya whereby claim of salary of petitioner's mother was rejected.

It is a peculiar case in which the employee who was said to be Assistant Teacher had made a complaint in the year 2006 itself regarding vexing or torturing by the Headmistress. The petitioner



though has claimed for payment of some due salary, in the writ petition it has not been indicated that when his mother retired and the date on which she left for heavenly abode. It was admitted by learned counsel for the petitioner that some time in the year 2011 the petitioner's mother died. After the death of mother, the petitioner filed a writ petition before this Court vide C.W.J.C. No. 7210 of 2012. In the present writ petition in its paragraph no. 17 the petitioner has categorically stated regarding the reliefs, which were sought for in C.W.J.C. No. 7210 of 2012. Same is quoted as follows:-

(1) For direction to the respondents to enquire the matter on the basis of application filed on 11.5.2006 by his mother.

(2) For direction to respondents to after enquiry punish the responsible person.

(3) For direction to the respondents to pay compensation to the petitioner.

(4) For any other relief/ reliefs which the petitioner is entitled in accordance with law.”

The said writ petition was finally disposed of on 20.4.2012.

A copy of the order of the same has been brought on record as Annexure – ‘9’ to the present petition. For just decision in the matter it would be appropriate to quote the same as follows:-

“Case of the petitioner is that his mother, who was working as Assistant Teacher in Girls Middle School, Gaya had submitted an application on 11.5.2006, as contained in Annexure – 1, before the Commissioner, Gaya Division complaining with regard to physical and mental torture meted out to her by the Headmistress of the School and depriving her



from marking attendance and withholding her salary. This application remained pending for enquiry and consideration by the respondents and she died.

From Annexure – 6 it appears that finally after cognizance was taken of the matter by the Commissioner of the Division and after information received from the State Information Commission, the Regional Deputy Director of Education, Magadh Division by his letter dated 13.08.2011 has directed the District Education Officer to complete the enquiry and submit a report within one week. Grievance is that till today, the District Education Officer has not submitted his report.

Learned counsel for the respondents submits that a direction may be issued to the Regional Deputy Director of Education to ensure that the enquiry is completed by the respondents on the allegation leveled by the deceased mother of the petitioner with definite findings.

It appears that already sufficient delay has been caused in the matter and meanwhile the mother of the petitioner has died. But her complaint is required to be enquired into for the purpose of undoing the wrong caused to her if found true.

In the circumstances, this writ application is disposed of with a direction to the Regional Deputy Director of Education, Magadh Division to see to it that a detailed enquiry in respect of the complaint of the deceased mother of the petitioner is held and report is submitted to him positively within two months from the date of receipt / production of a copy of this order and thereafter he must take decision on the same in accordance with law as may be necessary in view of the findings in the enquiry.”

Subsequently after the order of the writ court the petitioner filed a contempt petition which was registered as M.J.C. Case No.



4736 of 2012. However, after noticing the fact that the Regional Deputy Director Education had already passed the order on 30.12.2013 which was brought on record in the contempt proceeding, the contempt proceeding was disposed of with observation that petitioner may challenge the said order in accordance with law. The said M.J.C. was disposed of on 23.4.2014 vide Annexure – ‘11’ to the present writ petition. Thereafter, the present writ petition has been filed with a prayer to quash the order contained in Memo No. 1083 dated 30th December 2013 vide Annexure – ‘10’ to the present writ petition. On perusal of the order impugned it is evident that a specific stand was taken that whatever salary was due was already paid. Even the death –cum- retiral dues was also given to the father of the petitioner who was the husband of the deceased employee namely Smt. Urmila Pandey.

In view of the fact that after retirement entire retiral dues was settled, there is no reason for entertaining the present writ petition.

I do not find any defect in the impugned order.

The writ petition stands dismissed.

Praful/-

(Rakesh Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02-02-2017
Transmission Date	02-02-2017

