IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23643 of 2012

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1. Ajay Kumar Thakur Son Legal Heir And Representatives Of Mostt. Sharda Devi And Late Bindeshwar Thakur Resident Of Village- Bidhipur, Post Office- Karauta, Via And Police Station- Karauta, Via And Police Station- Bakhtiarpur, District- Patna, State Of Bihar, Pin Code- 803202
2. Vijay Kumar Thakur Son Legal Heir And Representative Of Mostt. Sharda Devi And Late Bindeshwar Thakur Resident Of Village- Bidhipur, Post Office- Karauta, Via And Police Station- Bakhtiarpur, District- Patna, State- Bihar, Pin Code- 803202

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. Chief Secretary, Government Of Bihar, Patna
3. Principal Secretary, Human Resources Development (Primary Education) Department, Government Of Bihar, Patna
4. Principal Secretary, Common Administration Department, Government Of Bihar, Patna
5. Joint Secretary, Common Administration Department, Government Of Bihar, Patna
6. Principal Secretary, Personnel and Administrative Reforms Department, Government Of Bihar, Patna
7. Principal Secretary, Finance Department, Government Of Bihar, Patna
8. Director, Primary Education, Bihar, Patna
9. Divisional Commissioner, Patna Division, Patna Null
10. District Magistrate, Patna
11. District Education Officer, Patna
12. District Superintendent Of Education, Patna
13. District Programme Officer (Establishment), Patna
14. Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shyam Kishore Sinha, Adv.
For the State	:	Mr. Raghwanand, GA-11
		Mr. Prakash Chandra Jha, A.C. to GA-11
For the Accountant General	:	Mr. Vivekanand Kumar, Adv.
		Mr. Bhagya Narayan Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-01-2017

The petitioner has filed the present writ application for quashing of the letter no. 884 dated 14th February, 2011 issued under the signature of the District Superintendent of Education, Patna. In the aforesaid letter, it is stated that the husband of the original petitioner Mostt. Sharda Devi, namely, Late Bindeshwar Thakur was not posted anywhere and not worked, hence no retirement benefit is admissible.

2. The contention of the petitioners is that pursuant to a circular issued by the Finance Department on 29th July, 1980, the requirement of minimum one year service condition for entitlement of family pension has been removed. The earlier scheme has been amended by the State Government and as such after death of father of the present petitioners, who was a retrenched census employee of 1981 Census and who died on 27th January, 2002 while waiting for acceptance of his joining as Matric trained Assistant Primary Teacher, they shall be entitled to receive death-cum-retiral benefits.

3. A counter affidavit has been filed on behalf of respondent no.13 wherein it has been contended that the petitioner was not posted in any school and salary was paid to the petitioners' mother under the orders of this Court treating him notionally in service. Hence, family pension is not admissible in such case.

4. It is contended by the learned counsel for the State that so far as payment of GPF, Group Insurance and Unutilized earned leave encashment are concerned, the same would also not be

admissible as the GPF account had not even been opened and monthly contribution of GPF as well as Group Insurance were not made from the salary of Late Bindeshwar Thakur. It is also contended that the earned leave is to be earned by the Government servant after rendering three years service and first three years is to be counted as probation period.

5. I have heard learned counsel for the petitioner, learned counsel for the State, learned counsel for the Accountant General and perused the record.

6. I find substance in the contention of the State. Admittedly, Late Bindeshwar Thakur had not worked even for a day in the school. Merely because salary was paid to the widow of the deceased under the orders of this Court treating the deceased employee to be notionally in service would not entitle the dependents of the deceased to receive family pension or other retiral dues.

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

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	