IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15575 of 2015

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Kumari Manju Lata Wife of Sri Phanindra Jha, Resident of Mohalla - Shastri Nagar, P.O. Ramna, P.S. Mithanpura, District - Muzaffarpur, Retired Assistant Teacher, Women's Teachers Training College (Sanlagn Pathshala) Rambagh, Muzaffarpur

.... Petitioner/

Versus

1. The State of Bihar
2. Principal Secretary, Human Resources Department, Government of Bihar, Patna
3. Director, Education Department, Government of Bihar, Patna
4. Regional Deputy Director of Education, Muzaffarpur
5. Principal, Women's Teachers Training College/DIET, Rambagh, Muzaffarpur
6. Accountant General, Bihar, Patna

.... Respondents

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Appearance :
For the Petitioner/s : Mr. Naresh Chandra Verma
For the Respondent/s : Mr. AC to AAG-7
Mr. Mani Kant Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

8 10-08-2017 Heard Sri Naresh Chandra Verma, learned counsel for the petitioner, learned AC to Addl. Advocate General no.7 and Sri Mani Kant Mishra, learned counsel for the Respondent/Accountant General, Bihar, Patna.

The petitioner, who superannuated with effect from 30.11.2014 as Assistant Teacher, Women's Teachers Training College (Abhyas Pataskala) Rambagh, Muzaffarpur, has approached this Court, invoking its writ jurisdiction with a prayer to direct the Respondents to pay her all retiral dues i.e.

Amount of Gratuity, Leave Encashment, Group Insurance, Commutation of Pension, Arrears of Pension and current pension with interest and cost.

It was submitted by learned counsel for the petitioner that till retirement, no proceeding was pending against the petitioner. However, after her superannuation, when he failed to get any retiral dues and constrained to file the present writ petition, the Respondents Department initiated a departmental proceeding, exercising power under Rule 43(b) of the Bihar Pension Rules. According to learned counsel for the petitioner, departmental proceeding initiated against the petitioner is itself malicious.

In the present case, a counter affidavit was filed on behalf of Respondent no.5 i.e. Principal, Women's Teachers Training College / DIET Rambagh, Muzaffarpur and it was indicated in paragraph-7 of the counter affidavit that following retiral dues of the petitioner i.e. (i) Rs.731615 for General Provident Fund, (ii) Rs.456230 for unutilized leave, (iii) Rs.87144 for Group Insurance and (iv) further for period 01.12.2014 to 31.03.2016 as provisional pension Rs.342760/- have been paid.

Learned counsel for the petitioner, by way of referring to paragraph-3 of the reply to the counter affidavit, has argued that it is true that amount of G.P.F. , E.L. , Group

Insurance and Provisional Pension from 1.12.2014 to 31.03.2016 have been paid, but up-to-date pension has not been paid. He reiterates that after payment of provisional pension till the date of 31.03.2016, the petitioner is not getting even provisional pension. Learned counsel for the State has tried to persuade the Court that there is departmental proceeding pending against the petitioner.

The Court is of the opinion that once even though departmental proceeding under rule 43(b) of the Bihar Pension Rules is pending against the petitioner, at the same time the petitioner may not be debarred from getting the provisional pension. In that view of the matter, it is necessary to direct the Respondents to pay provisional pension regularly to the petitioner that will be subject to result of the departmental proceeding. So far as claim of gratuity is concerned, the Court is of the opinion that same shall be kept in abeyance till the end of departmental proceeding.

The Court expects that the Respondents Department may take appropriate steps, so that the departmental proceeding against the petitioner under Rule 43(b) of the Bihar Pension Rules may come to an end at the earliest preferably within a period of nine months from the date of receipt/production of a copy of this order.

With above observation and direction, the writ petition stands disposed of.

(Rakesh Kumar, J)

NKS/-

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