

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3335 of 2014

IN

Civil Writ Jurisdiction Case No. 1675 of 2006

- =====
1. Gyaneshwar Kumar.
 2. Vijay. Both are sons of Late Kapildeo Narain Singh. Resident of village and Post Office - Khawaspur, District - Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar, through Shri R.K. Mahajan, Principal Secretary Human Resources Department Govt. of Bihar, Patna.
2. Dr.(Prof.) Mohammad Ishtiaq. Vice Chancellor, Magadh University, Bodh Gaya, District - Gaya.
3. Dr. D.K. Yadav, Registrar, Magadh University, Bodh Gaya, District - Gaya.
4. Shri D.K. Sinha., Finance Officer, Magadh University Bodh Gaya, District - Gaya.
5. Dr. Sanjay Kumar., Principal, Ram Krishna Dwarika College Lohia Nagar, District - Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Birendra Narayan Sharma
For the University	:	Mr. Ritesh Kumar, Adv
For the State	:	Mr. Anil Kumar Sinha, GA 1
		Mr. Aditi Hansaria, AC to GA 1

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 06-07-2017

The petitioners herein are the legal heirs of one Kapildeo Narain Singh who was working as a Reader in Ram Krishna Dwarika College, Patna under the jurisdiction of Magadh University. It seems that after retirement of the employee on 31.07.1995, there arose a dispute with regard to payment of pensionary claims to him and he filed a writ petition before this Court being C.W.J.C. No.



11736 of 1997 and when the matter came up before a Bench of this Court on 04.12.1998, it was objected to by the University that as the employee has opted for coming within the purview of the contributory provident fund and that after his retirement, he has received all the contributory provident fund amount, now he is not entitled for pension. When such submission was made by the University, the counsel representing the original petitioner Kapildeo Narain Singh on 04.12.1998 made statement before this Court that the petitioner is willing to deposit the entire contributory provident fund amount along with interest accruing therein and therefore, the petition was disposed of directing the University to settle the pensionary claim of the petitioner within three months on the petitioner depositing the contributory provident fund. When this was not done and after death of the original petitioner Kapildeo Narain Singh, inter alia contending that the order passed by this Court on 04.12.1998 had not been complied with, the petitioner No. 2 Vijay Kumar Singh filed a contempt application before this Court being M.J.C. No. 2261 of 1999, wherein a complaint was made that the University has not settled the pensionary claim and therefore contempt action should be taken.

This Court did not deem it appropriate and it was found that the petitioner's legal heirs of the deceased employee have



not deposited the amount but they are willing to deposit of the amount therefore the contempt application was disposed of directing the University to take action after the amount is deposited.

Today again, it is seen that the contributory provident fund amount has not been deposited and again this contempt application is filed by making the statement that the counsel who represented the original petitioner in C.W.J.C. No. 11736 of 1997, without proper instructions made the statement for depositing of the contributory provident fund. The petitioners are not liable to deposit the contributory provident fund amount and therefore, in not settling the claim of the petitioners, error has been committed.

I find the aforesaid submission is totally unsustainable and cannot be accepted. In the earlier round of litigation and even in contempt case being M.J.C. No. 2261 of 1999, it was found in the contempt application that the University has already prepared the pension payment papers but as per the original orders passed in the writ petition, it was observed that the University can take action after the contributory provident fund amount is deposited and the petitioners seems to be willing to deposit the amount but has not deposited the amount and the direction issued was that as per direction of this Court when the legal heirs of the petitioner deposit the amount along with interest as per direction of this Court then



University shall sanction necessary pension amount without any delay. There is nothing available on record to show that petitioners have deposited the contributory provident fund amount along with interest and in the absence of petitioners having done so, this Court does not deem it proper to initiate any action for contempt. The application for contempt is wholly misconceived. In case, it is the case of the petitioners that counsel has made wrong statement, petitioners can challenge the order passed in C.W.J.C. No. 11736 of 1997 or seek review of the order.

In the facts and circumstances stated hereinabove, I find no case for contempt. Accordingly, the application stands dismissed.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

