

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18725 of 2012

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1. Syed Shabbir Ashraf son of Late Syed Khadim Hussain Ashraf, resident of Mohalla- Kamra Chandwara, Police Station- Muzaffarpur Town, District- Muzaffarpur.
 3. Syed Masoom Ashraf son of Late Syed Khadim Hussain Ashraf, resident of Mohalla- Kamra Chandwara, Police Station- Muzaffarpur Town, District- Muzaffarpur.
 4. Itrat Fatmi daughter of Late Syed Khadim Hussain Ashraf, wife of Syed Shakeel Ahmad, resident of village- Khanpur, P.S. Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The State of Jharkhand through the Principal Secretary, Education Department, Government of Jharkhand, Ranchi.
4. The District Superintendent of Education, Khunti, Jharkhand.
5. The Area Education Officer, Torpa, District- Ranchi, Jharkhand.
6. The Accountant General, Bihar.
7. The Branch Manager of State Bank of India, Chandwara, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

: Mr. Mazharul Hassan, Advocate

For the Accountant General : Mr. Binod Kumar Labh, S.C. (I.A. & A.D)

For the State of Bihar : Mr. Kumar Pankaj, A.C. to S.C.-5

For the State of Jharkhand : Mr. Manjari Nath, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 28-03-2017

The instant writ application has been filed by the petitioner



for payment of full admissible amount of retiral benefits of his father late Syed Khadim Hussain Ashraf, who retired on 31.08.1995 as a Block Education Extension Officer, Torpa within the District of Ranchi and died on 12.10.2005.

2. It is contended by the learned counsel for the petitioner that full and final pension and gratuity of late Khadim Hussain Ashraf were not paid to him during his life time. He submitted that the mother of the petitioner also died on 9.01.2010 and hence, the petitioner, the only legal heir, is entitled to receive the due pensionary benefits of his late father.

3. The stand of the State of Jharkhand in the counter affidavit is that the post retiral benefits of the father of the petitioner were sanctioned on the basis of last pay drawn and the employee had been paid all his pensionary benefits during his life time.

4. The State Bank of India has also filed its counter affidavit wherein it is categorically stated that the entire amount payable towards the post retirement benefits was paid to the deceased employee in the month of November, 2005 itself.

5. Apart from the vague statement made in the writ application filed after lapse of seventeen years of retirement of the deceased employee, there is nothing to substantiate the claim that retiral dues of his father was not paid to him during his life time.



Further, in the counter affidavit filed on behalf of respondent no.4 in a tabular chart details of payment made to the deceased employee have been given.

6. Considering the pleadings of the parties, I am of the considered opinion that the writ application is fit to be dismissed both on the grounds of delay and laches as also because the deceased employee had already received all his pensionary benefits during his life time.

7. Accordingly, the writ application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.03.2017
Transmission Date	

