

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8630 of 2004

=====

Siroman Devi W/o late Munni Prasad Lal resident of Rental Flat No. 190 Housing Colony Kankarbagh P.S. Kankarbagh Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner & Secretary Primary and Adult Education Vikash Bhawan, New Secretariat, Patna.
2. The Secretary Secondary Primary and Adult Education Vikash Bhawan new secretariat Patna.
3. The Finance Commissioner Govt. of Bihar Old Secretariat Patna.
4. Director (Administration)-cum-Deputy Director Adult Education New Secretariat Patna.
5. The Director Adult mass Education Directorate Bihar Patna.
6. The Accountant General Bihar Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sachahida Nand, Advocate

Mr. Kishore Prasad Singh, Advocate

For the Respondent/s : Mr. Ranjan Kumar Singh, AC to AAG 2

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 19-02-2018

Re. Interlocutory Application No. 1437 of 2018

Interlocutory Application has been filed for substitution of the wife of the petitioner namely, Smt. Siroman Devi in view of the demise of the petitioner on 04.02.2009. Copy of the death certificate has been placed on record as Annexure 1 to the interlocutory application.

2. Let the name of the original petitioner be expunged from the records and in his place the name of Smt. Siroman Devi be substituted.



3. The interlocutory application stands allowed.

Re. Civil Writ Jurisdiction Case No.8630 of 2004

4. Heard counsel for the petitioner and the respondent State.

5. The writ petition was filed by the petitioner claiming that at the time of retirement he was working on the post of Accounts Clerk in the Secondary, Primary and Adult Education in the old pay scale of Rs. 1320 to 2040/- and claiming that he was entitled to replacement scale of Rs. 4000 to 6000/- and that he was entitled for fixation of his pension in the revised pay scale.

6. This Court finds that the petitioner had earlier filed a writ petition bearing C.W.J.C. No. 4054 of 1999 since his retrial dues was not paid even after lapse of two years from the date of his retirement i.e. dated 31.01.1998. The writ petition was disposed off in view of the fact that post retrial dues of the petitioner had been paid during pendency of the said writ petition. The Writ Court while disposing off the writ petition has directed that the petitioner was entitled to the interest at the rate of 10 % from due date till the date of payment of his retrial dues.

7. This Court would only observe here that in the said proceedings no grievance has been raised regarding the claim raised in



the instant writ petition and no claim has been made for making payment of the dues by treating his revised pay scale of Rs. 1400 to 2000/-.

8. Counter affidavit has been filed on the behalf of the State wherein Annexure C i.e one office order dated 09.08.2002 has been placed on record. The same discloses the petitioner's initial appointment on 01.08.1981 on the post of Accounts Clerk. The department has granted the first time bound promotion in the revised pay scale of Rs. 1400 to 2300/- with effect from 01.08.1991 on completion of 10 years of service. The same is said to have been communicated to the petitioner. Consequent thereto one office order dated 09.08.2002 has been issued which is Annexure B to the counter affidavit wherein the revised pay scale of the petitioner from the date of payment till the date of his retirement i.e., 31.01.1998 has been shown. From the same it appears that the petitioner's revised pay scale at the time of his superannuation was 3050-75-3950-80-4590/- with effect from 01.01.1996.

9. The aforesaid fixation made by the said two documents have never been objected nor challenged by the petitioner. Even today in the instant writ petition other than saying that the petitioner's representation which is Annexure 5 is pending, the counsel for the petitioner is unable to point out whether the said



fixation has ever been disputed or challenged. The petitioner is only relying upon the provisional fixation done by Annexure 2, dated 06.10.1999.

10. In view of the considerations above and since no challenge has been made to the Annexures C and D, no further relief can be granted in the instant writ proceedings.

11. The writ petition is accordingly, dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2018
Transmission Date	

