IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21183 of 2011

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Bharti Panjiyar W/O Mathura Mohan Panjiyar Advocate, Gayatri Nagar, Purabsarai, Munger, District Munger.

... ... Petitioner/S

Versus

1. The State Of Bihar Through Principal Secretary, Human Resources Development Department, Government Of Bihar, Patna.
2. The Director, Secondary Education, Government Of Bihar, Patna.
3. The District Education Officer, Munger, District Munger.
4. The District Provident Fund Officer, Munger, District Munger.
5. The In Charge Headmistress, Balmiki Rajniti Girls High School, Madhopur, Munger.
6. The Accountant General, Bihar, Veer Chand Patel Path, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Siya Ram Shahi, Advocate
For the Respondent/s : Mr. Anjani Kr. Saran, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 22-06-2018

Heard Mr. Siya Ram Shahi, learned counsel for the petitioner and Mr. Anjani Kr. Saran, learned counsel appearing on behalf of the Accountant General as well as the State.

Earlier the petitioner had filed CWJC No. 1799 of 2008. The said writ petition was disposed of by order dated 06.07.2009 with liberty to the petitioner to file representation raising her grievance. The representation filed by the petitioners, in the light of the order dated 06.07.2009 in C.W.J.C. No. 1799 of 2008, was rejected vide impugned order dated 30.11.2009, as contained in annexure-7. From perusal of the order of annexure-7, it appears that the respondents have determined the liability of the petitioner as Rs. 15,15,547.54.

Mr. Shahi, learned counsel for the petitioner submits that the entire decision of the respondents is contrary to the principles of natural justice as without providing opportunity of hearing and without contemplating any proceeding under Rule 43 B of the Bihar Pension Rules, the respondents have fastened the liability upon the petitioner and as such the decision of the respondents is unsustainable in the eye of law.

In the aforesaid circumstances, the Court is of the considered view that after superannuation the matter has come to an end and the only remedy available to the respondents is to take step in terms of Rule 43 B of the Bihar Pension Rules. It has been agreed at the bar that no proceeding under Rule 43 B was initiated against the petitioner and as such the Court has no difficulty in holding that the action of the respondents in determining and fastening the liability on the petitioner is against the basic principle of natural justice and fair play. It is now well settled principle that any action visiting evil and civil consequences will not be taken without compliance of principle of natural justice. Reference in this connection may be made to the judgment of the Apex Court in the case of H.L. Trehan and Ors. vs Union Of India and Ors.: AIR 1989 SC 567.

In view of the above Apex Court judgment in the case of H.L.Trehan (Supra) and the undisputed fact that the action of the respondents determining the liability of the petitioner was behind the back of the petitioner and without initiating any proceedings under Rule 43B of the Bihar Pension Rules, the impugned order dated 30.11.2009, Annexure-7 is fit to be quashed. It is, accordingly, quashed.

The respondents are directed to workout the entitlement of the petitioner for payment of the dues payable to the petitioner on superannuation ignoring Annexure-7, which has been quashed in the present case. In this regard decision must be taken by the respondents within a period of sixty days from the date of receipt/production of a copy of this order.

It is needless to state here that time frame under Rule 43B is four years and if the respondents have not initiated proceeding under Section 43B till date, no such proceeding is permissible in view of the provisions of Rule 43B as more than four years have passed since the petitioner date of superannuation of the petitioner.

The writ petition is, accordingly, allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2018
Transmission Date	