

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3947 of 2016

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Devendra Kumar Mishra, S/o Late Dhaneshwar Mishra, resident of Village & P.O.-
Hatani, P.S. Ghonghad Diha, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Patna.
5. The District Programme Officer (Establishment), Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha, Advocate
Mr. Fateh Bahadur Singh, Advocate
For the Respondent/s : Mr. S. K. Mandal, SC-3
Mr. Bipin Kumar, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner and the counsel
appearing on behalf of the State.

The issue raised in the present writ application is more *res integra*. In fact, a Co-ordinate Bench of this Court has decided the issue in C.W.J.C. No. No. 23 of 2015. The decision of the Co-ordinate Bench of this Court was approved by the L.P.A. Court in L.P.A. No. 1856 of 2016 and the decision of the L.P.A. Court reads as follows:

“In awarding earned leave to the retired employee based on a policy of the State Government as contained in the Circular dated 20.02.1990, the learned Writ Court has not committed any error warranting reconsideration.



2. Reliance placed by the learned counsel for the State to say that based on the policy, as contained in the letter dated 29.06.1983 the employee was only entitled to pension, provident fund and gratuity, cannot be accepted for the simple reason that this policy of 1983 stood changed on 20.02.1990 and on the basis of the changed policy, the benefit of encashment of leave was granted to the retired employee, who retired in the year 2013.

3. We find no reason to interfere with the order passed by the learned Writ Court. The appeal being devoid of merits is dismissed.”

In view of the above, the present writ application is disposed of. The respondents are hereby directed to ensure payment of Leave encashment in terms of the Circular dated 20.02.1990 within a maximum period of 60 days from the date of receipt/production of a copy of this order.

Learned counsel appearing for the petitioner submits that petitioner was not even granted Dearness Allowance, which the petitioner is entitled to in terms of the policy decision of the Government. In view of the above, the respondents to examine the claim of the petitioner for grant of Dearness Allowance and if it is found that Dearness Allowance is available with petitioner and petitioner has not been paid Dearness Allowance, the same may be



calculated and must be paid to the petitioner within the time frame indicated hereinabove in view of the decision passed by this Court in C.W.J.C. NO. 3562 of 2016.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2018
Transmission Date	

