

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7366 of 2017

Most. Budur Devi, W/o-Late Raj Kumar Mandal, R/o-Village- Kalapatti,
Tola- Katwasa, P.O.- Kalapatti, Police Station- Phulparas, District-
Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through Department of Primary and Adult Education, New Secretariat, Bihar, Patna.
2. The Director, Primary Education, Department of Primary and Adult Education, New Secretariat, Bihar, Patna.
3. The Joint Commissioner, Provident Fund Directorate, 4th Floor, Pant Bhawan, Bailey Road, Patna.
4. The District Magistrate, Madhubani.
5. The District Education Officer, Madhubani.
6. The District Provident Officer, Madhubani.
7. Accountant General Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav
For the Respondent/s : Mr. Kameshwar Kumar- GP 17

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 06-12-2018

Heard Mr. Lakshmindra Kumar Yadav, learned counsel for the petitioner, Mr. Amit Bhushan, learned AC to GP-7 for the respondent-State and Mr. S.M. Ehtesham, learned counsel for the Accountant General.

The present writ application has been filed for a direction to the respondent authorities to make payment of General Provident Fund till 1976 including statutory and penal interest, calculated from the date the amount fell due till the date of actual payment. The relief prayed for, as stipulated in paragraph no.1 of the writ application reads as follows:-



“1. That this writ petitioner is being filed for the following reliefs:-

(i) For issuance of an appropriate order, direction or writ in the nature of MANDAMUS commanding the respondents to make payment of the remaining amount of General Provident Fund till 1976 including statutory and penal interest with effect from due date till the date of payment.

(ii) For any other relief or reliefs for which the petitioner may be found entitled in the facts and circumstances of the case.”

The factual matrix of the case is that the late husband of the petitioner, namely, Raj Kumar Mandal was appointed on 15.10.1973 on the post of Assistant Teacher and he died in harness on 21.10.1988, while was he was posted as Assistant Teacher at Middle School, Andharwan, District Madhubani. The petitioner is getting family pension since 21.10.1988 and all other dues have been paid, except, the G.P.F. amount which remains unpaid. Categorical statement to that effect has been made in paragraph no.8 of the petition, which reads as follows:-

“That the petitioner widow has been getting family pension since 21.10.1988 and other all dues has been paid to petitioner except the dues as prayed in paragraph no.1 of this writ petitioner.”

The husband of the petitioner was not paid remaining G.P.F. amount till November, 1976, while he was posted in the district of Bhagalpur. The petitioner made representation before



the authorities on numerous occasions, as contained in Annexure-4, while similarly situated persons have been paid all the due G.P.F. amount in pursuance to the order of this Court dated 29.11.2013 and 29.04.2014, passed in C.W.J.C. Nos. 15039 of 2013 and 15730 of 2013, respectively, as contained in Annexure-5(series).

A counter affidavit has been filed on behalf of Respondent No.5, the District Education Officer, Madhubani to the effect that prior to 1976, the provident fund amount of the teaching and non-teaching staffs of the primary and middle schools was being deposited in the post office since the account details are not available hence, the authorities of the post office have been requested to provide account statement details. The issue of payment got delayed since the district of Madhubani was carved out from the district of Darbhanga. However, Respondent No.5, the District Education Officer, Madhubani, vide letter no. 332, dated 22.07.2014, as contained in Annexure-A and Respondent No.4, the District Magistrate, Madhubani, vide letter no. 3504, dated 18.10.2014, as contained in Annexure-A/1, have already requested the Director, Primary Education, Bihar to make allotment of funds for payment of GPF amount. Consequently, Director, Primary Education, Bihar, vide



letter no. 58, dated 23.01.2015 directed to verify the account from the office of District Education Officer, District Provident Funds Officer and the concerned post office and consequently, Respondent No.4, the District Magistrate, Madhubani, vide letter no. 1378 dated 22.04.2015 requested the Postmaster, Chief Post Office, Madhubani to provide account details. However, vide letter no. 99, dated 01.10.2015, letter no. 306, dated 17.12.2015 as well as letter no. 549, dated 04.03.2016, as contained in Annexure-E to the counter affidavit, the Director, Primary Education has been requested to provide the funds so as to enable him to make payment to all such employees/teachers including the petitioner. Paragraph no.9 of the counter affidavit filed on behalf of respondent no.5 reads as follows:-

“That it is stated and submitted that subsequently, vide letter no. 99 dated 01.10.2015, letter no. 306, dated 17.12.2015 as well as letter no. 549 dated 04.03.2016, the Director, Primary Education has been requested to provide the funds so as to enable him to make payment to all such employees/teachers including the petitioner.”

Consequently, in pursuance to the order and direction of the Finance Department dated 27.07.2015, an enquiry team was constituted for verifying the authenticity of claim and payment to the petitioner. The report was submitted on 04.03.2016 and consequently in view of the report, the Director,



Primary Education, Bihar, vide letter no. 1420, dated 29.08.2016, directed the respective D.P.O. (Establishment) of the district of Samastipur and Madhubani to prepare the list of claimants. Consequently an advertisement was published on 01.11.2016 in the daily newspaper inviting the claimants to submit their claim. Thereafter, altogether 936 claims were received, however, the petitioner could not make any claim.

A counter affidavit has been filed on behalf of Respondent Nos. 3 and 6, the Joint Commissioner, Provident Fund Directorate and the District Provident Officer, Madhubani, respectively, to the effect that vide letter no. 240, dated 29.05.2017, as contained in Annexure-B to the counter affidavit filed on behalf of Respondent Nos. 3 and 6, the District Provident Fund Officer, Madhubani requested the District Education Officer, Madhubani and District Programme Officer (Establishment), Education Department, Madhubani to make available the deducted G.P.F. amount till November 1976 by challan, but the said information has not been received till date, hence steps have been taken for making payment.

Learned counsel for the petitioner submits that due to old age, the petitioner was not aware about the advertisement made in the newspaper, however, she made several



representations for payment of G.P.F. amount, but the same has not been made till date.

Considering the rival submissions of the parties and perusing their respective pleadings, it is apparent that appointment of the petitioner on 15.10.1973 as a Primary Teacher in the Middle School and his death in harness on 21.10.1988 is not in dispute. Since the retiral benefits have been processed and all payment have been made, this Court finds the respondent authorities at fault for not making payment of G.P.F. amount to the petitioner. From the pleading made in the counter affidavit, it only appears that the burden is being tried to be shifted from the District Education Officer to District Provident Officer or to the Director, Primary and Adult Education or to the Post Office.

In the circumstances, the petitioner is permitted to submit her claim before Respondent No.2, the Director, Primary Education, Department of Primary and Adult Education with a copy thereof to Respondent No. 5, the District Education Officer, Madhubani and Respondent No. 6, the District Provident Officer, Madhubani within a period of three weeks from the date of receipt/production of a copy of this order, whereupon it is expected from the respondent authorities to



calculate the due G.P.F. amount and make payment of the same with statutory interest calculated from the date, the payment fell due, to the date of actual payment, within a period of ten weeks of submission of representation by the petitioner.

Accordingly, with the above observation and direction the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.01.2019
Transmission Date	

