

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12567 of 2014

=====

Pushpa Prasad Wife of Late Bindeshwari Prasad resident of Mohalla-
Machharhatta, Patna City, Police Station- Khajekalan, Post Office- Patna City,
District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Govt.of Bihar, Vikas Sadan, New Secretariat, Bailey Road, Patna.
2. Director, Primary Education, Education Department Government of Bihar,
Vikas Sadan, New Secretariat, Bailey Road, Patna.
3. The District Magistrate, Patna.
4. Deputy Development Officer, Patna.
5. District Education Officer, Patna.
6. District Programme officer, Establishment, Patna.
7. Block Education Extension Officer, Danapur.
8. Accountant General, Bihar Birachand Patel Marg, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar
For the Respondent/s : Mr. Gp21- Sanjay Pandey

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

- 2 31-07-2018 1. Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the respondent.
2. The grievance of the petitioner in the instant case
is non-payment of the salary from April, 2001 to 05.07.2009. On
behalf of the respondent stand has been taken in paragraph 11
of the counter affidavit that the petitioner after 01.05.2002 did
not resume her duty and remain absent till the date of her
superannuation.
3. In paragraph 9 to 11 the following stand has been
taken:-



“9. That it is stated and humbly submitted that the petitioner moved the Hon’ble Court after five years of her superannuation. Moreover, the petitioner filed representation before the answering deponent on 05.03.2012 (Annexure-12 of the writ application) upon which the answering deponent vide letter Nos. 9522 dated 04.12.2014, 9974 dated 23.12.2014 as well as press communique dated 20.02.2015 published in Hindi Daily namely “Dainik Jagaran” informed the petitioner for participation in the hearing on 12.12.2014, 30.12.2014 and 26.02.2015 respectively.

10. That it is stated and humbly submitted that despite of the letters sent by the answering deponent and the press communique the petitioner did not turn up before the answering deponent. Indeed, the petitioner has not co-operated with the office of the answering deponent.



The petitioner seems to have slept at home having sent the representation. Thereafter, the claim of the petitioner as stated in her representation dated 05.03.2012 has been rejected by Memo No. 3979 dated 13.05.2015.

11. That it is stated and humbly submitted that after 01.05.2002 the petitioner did not resume her duty and remained absent till the date of her superannuation without and sanction of leave or without even any information to the authorities/department concerned.”

4. In view of the above the Court is not inclined to grant any positive relief as there is dispute whether the petitioner has actually worked or not.

5. However, the claim of the petitioner for post retiral benefit merits consideration as the petitioner was not terminated from the service by the respondent. The respondents are required to pay post retiral dues treating the service of the petitioner upto 01.05.2002.

6. In view of the above, the writ petition is disposed



of with a direction to the respondent to examine the record and if the petitioner had worked from April 2001 to 05.07.2002 then payment of salary may be paid to the petitioner from April 2001 to 01.05.2002. Respondent may also work out the entitlement of petitioner for post retiral benefit treating the service of the petitioner for pension purpose upto 1.5.2002. The entire exercise in the matter of arrears of salary from April, 2001 to 1.5.2002 and post retiral dues treating the length of service of the petitioner upto 1.5.2002 must be taken by the respondent within a maximum period of four months from the date of receipt/production of a copy of this order.

7. It is made clear that respondent are required to ensure monetary benefit with the time framed indicated hereinabove.

8. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

banti/-T.Kr.

U		T	
---	--	---	--

