

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15617 of 2014

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Krishanmani Devi, widow of late Paramhans Ray, resident of village Gorpa,
P.S.-Chouri, District-Bhojpur Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, New Secretariat, Vikash Bhawan, Patna
2. The Principal Secretary, Department of Human Resources, New Secretariat, Vikash Bhawan, Patna
3. The Director, Primary Education, Department of Human Resources, New Secretariat, Vikash Bhawan, Patna
4. The Deputy Development Commissioner, Bhojpur at Arrah
5. The District Education Officer, Bhojpur at Arrah
6. The Treasury Officer, Bhojpur at Arrah

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr.- Kinkar Kumar SC-9

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-08-2018

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

2. The petitioner is the widow of the deceased employee. She has filed the present writ petition for payment of salary of her late husband, who was Assistant Teacher in Middle School, Chanda Tarari (North), Bhojpur at Arrah for the period 31.3.1993 to 8.6.2008.

3. The petitioner's husband was undergoing treatment for leprosy and as such he applied for sanction of leave without salary. After his ailment was cured, he submitted joining along with the certificate of fitness on 3.5.2002. The joining of the husband of the petitioner was not accepted. Under the



circumstances, he filed CWJC No. 8121 of 2003, which was disposed of on 27.4.2005. In the meanwhile, the husband of the petitioner was dismissed from service. Against the decision of dismissal, the husband of the petitioner filed Service Appeal No. 54 of 2005, which was allowed on 26.10.2007 and the termination order was set aside by the appellate authority. Thereafter no proceeding was initiated and in the meanwhile the husband of the petitioner died on 8.6.2008.

4. Learned counsel for the petitioner submits that the petitioner's husband had submitted his joining after undergoing treatment on 3.5.2002 but was not allowed to join by the respondents and as such he is entitled to payment of salary for the period from 3.5.2002 till the date of order passed by the appellate authority i.e. 26.10.2007, whereby the order of dismissal was set aside by the appellate authority and thereafter upto death on 8.6.2008.

5. There is no dispute that the order of termination was set aside in service appeal No. 54 of 2005. The order of termination was passed in violation of the principles of natural justice and fair play. Since the husband of the petitioner himself applied for sanction of leave without salary on 13.4.1994 and submitted his joining with fitness certificate on 3.5.2002, the



husband of the petitioner was not entitled for salary for the aforesaid period as he had himself applied for leave without salary and from 31.3.1993 to 12.4.1994 and for the period after 3.5.2002 to the date of death of the petitioner 8.6.2008, the respondents have not allowed the petitioner's husband to join the post and passed order of termination, which was set aside by the appellate authority and after the order of the appellate authority, the husband of the petitioner was not allowed to work. The respondents cannot be justified in denying the salary for the period when the husband of the petitioner was not allowed to join.

6. Accordingly, the respondents are directed to make payment of salary of the late husband of the petitioner for the period from 3.5.2002 to 8.6.2008 to this petitioner within a maximum period of six months from the date of receipt/production of a copy of this order.

7. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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