

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19430 of 2016

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Nirmala Mishra, W/o Sri Akshay Kant Pandey, resident of Flat No. 203,
Chanchal Apartment, Nehru Nagar, P.S. Patliputra, Town & District – Patna
... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna
2. The Director, Secondary Education, Education Department, Govt. of Bihar,
Patna
3. The Regional Deputy Director of Education, Patna Division, Patna
4. The District Education officer, Patna
5. The Treasury Officer, Patna City, Patna
6. The Branch Manager, State Bank of India, Anandpuri Branch, Patna
... Respondents

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Appearance :

For the Petitioner	:	Mr. Rama Kant Singh, Adv.
For the State	:	Mr. Prabhakar Jha, GP XXVII with Mr. Mukund Mohan Jha, AC to GP XXVII
For the SBI	:	Mr. Rakesh Kumar Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

9 07-01-2019 Heard the learned counsel for the petitioner, the

learned counsel appearing for the State and the learned counsel

for the State Bank of India.

Petitioner retired from the post of Assistant Teacher
from the B.N.R. Training College, Gulzaarbagh, Patna, with
effect from 31.12.2013. With respect to some irregular and
illegal appointments in view of the order passed in a public
interest litigation, being C.W.J.C. No. 9847 of 1998 in the case
of Brajesh Kumar Singh Vrs. the State of Bihar & Ors, this
Court had directed the Central Bureau of Investigation to carry
on investigation in respect of teachers' appointment in Lower



Subordinate Service (Female Cadre). An enquiry report was submitted by the Central Bureau of Investigation on 30.11.2004 in which the report stated that out of 305 teachers, appointment of 27 teachers were found regular and appointment of 278 teachers were found to be irregular. Accordingly, show cause notice was issued to the petitioner and others, dated 31.07.2006, as contained in Annexure 1 to the writ application. Petitioner submitted her show cause reply, which is at Annexure 2, dated 11.08.2006. After ten years of the retirement of the petitioner, the Regional Deputy Director, Education, Patna Division, Patna, issued a letter vide Memo no. 998, dated 19.08.2016, converting the proceedings under Section 43(b) of the Bihar Pension Rules as the petitioner and similarly situated employees had superannuated, which is at Annexure 3 and is under challenge in the writ application. The pension of the petitioner was stopped with immediate effect and a communication, dated 12.09.2016, was made to the Branch Manager, State Bank of India, Anandpuri Branch, Patna, by the Treasury Officer, Patna City, which is at Annexure 5 to the writ application, which is also under challenge in the present writ application.

Counsel for the petitioner submits that although proceedings under Section 43(b) of the Bihar Pension Rules



were proposed to be initiated, but, no headway has been made and now a counter affidavit has been filed on behalf of respondent no. 5 in which letter, dated 27.07.2017, as annexed as Annexure 'D' directing the Treasury Officer, Patna City, to make payment of pensionary benefits.

Learned counsel for the petitioner submits that her retiral benefits have been paid much earlier and she is getting month-to-month pension, which the counsel for the State also affirms.

Considering the submissions of the parties, since, no action has been taken against the petitioner in view of Annexure 3, dated 19.08.2016, and the petitioner has received the entire retiral dues and is being paid month-to-month pension, which has been released to the petitioner, nothing more survives at the present.

Learned counsel for the State submits that in pursuance to order passed by this Court fresh show cause notice is being issued, which would be a subsequent cause of action.

The petitioner has already received her pensionary benefits and is receiving month-to-month pension, as affirmed both by the petitioner and the respondent. However, petitioner is at liberty to take recourse to law if the authorities propose to



initiate proceedings in furtherance to the letter, dated 19.08.2016, as contained in Annexure 3 to the writ application.

Since, no final decision in respect of withholding of any part of the pension of the petitioner has been passed and the petitioner has received the entire retiral benefits and is being given her month-to-month pension, which has not been disputed by either of the parties, this writ application is, accordingly, **disposed off.**

(Nilu Agrawal, J)

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