

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12126 of 2021

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Neeta Kumari W/o - Late Binod Kumar Verma R/O - Flat No. 102, Apurva Apartment, Shivaji Path, P.S. - Gardanibagh, District- Patna.

... .. Petitioner/s

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 District Programme Officer, Patna.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate. Mr. Pranav Kumar, Advocate. Mr. Prabhojot Kumar Singh, Advocate.
For the Respondent/s	:	Ms. Namrata Singh, AC to GA 12.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 24-11-2022

Heard Mr. Rajeev Kumar Singh, learned counsel for the petitioner duly assisted by learned counsels Mr. Pranav Kumar and Mr. Prabhojot Kumar Singh and Ms. Namrata Singh, learned AC to GA 12 for the State.

The present writ application has been filed seeking a direction upon the respondents to ensure payment of all the retiral dues including the full pension, gratuity, GPF, GIC and Earned Leave of 300 days to the petitioner along with statutory interest.



The short facts, which led to the filing of the present writ application is that the petitioner on being appointed as Assistant Teacher (Matric Trained) vide Memo No. 7400-3, dated 23.09.1988 submitted her joining in Rajkiya Kanya Madhya Vidyalaya, Khagaria on 03.10.1988,, which was duly accepted, and the petitioner started discharging her duties. It is further submitted that thereafter by the order of the School Inspector-cum-Deputy Director of Education, as contained in Annexure-2, the appointment of the petitioner was extended till further order and as such she continued on her service since then. While the petitioner was working as Assistant Teacher in B.N.R. Training College, Gulzarbagh, Patna, she along with other similarly situated persons, who were appointed/promoted between 1980 and 1998 in the cadre of Lower Subordinate Service, directed to appear before the Deputy Superintendent of Police, CBI, New Delhi, Camp Office, Director (Secondary Education) Buddha Marg, Patna, on 16.10.2003 along with all the documents/testimonials in support of their qualification. In response to the aforesaid letter, the petitioner along with others appeared and submitted all her testimonials/certificates.

It is further contended that after having completed the enquiry the CBI submitted its enquiry report, however, till date



neither any further action has been taken over the enquiry report nor even any FIR has been instituted. Mr. Singh, further contended that, however, soon thereafter vide letter no. 2059, dated 29.07.2006, the School Inspector-cum-Deputy Director of Education, Bihar, issued show cause notice to the petitioner, seeking explanation on the point of incumbent irregularities discovered in course of CBI enquiry.

In response of the aforesaid show cause, the petitioner submitted her explanation in details. After, submission of the explanation on behalf of the petitioner no further action has been taken; and subsequently, the petitioner and others have been given promotion in Subordinate Education Service with effect from the date of completion of ten years of their service, however, by somehow or other they have been debarred from the benefit of merger of S.E.S. in Bihar Education Service Class-II, which order was challenged by the petitioner and others in CWJC No. 13258 of 2016 and the matter is still sub-judice before this court.

He next contended that in the meanwhile one PIL bearing CWJC No. 10002/2016 was filed seeking implementation of the recommendation made by the C.B.I. and in compliance of the order of the Hon'ble Court another show cause was issued to the petitioner. In response to the aforesaid show cause, she



submitted her explanation. Thereafter, second show cause was issued to the petitioner by the Regional Deputy Director of Education, vide letter no. 1331 dated 18.10.2016. The petitioner responded that on account of non supply of enquiry report and necessary documents she is unable to file proper reply, however, even though she submitted her reply on the basis of the documents, which was available with the petitioner.

Subsequently, vide memo no. 1474 dated 18.11.2016 the petitioner has been removed from her services with immediate effect. The order of the removal dated 18.11.2016 was assailed by the petitioner by filing CWJC No. 19566 of 2016. The Hon'ble court having heard the parties has been pleased to stay the operation of the impugned order dated 18.11.2016, the copy of which has been brought on record by way of Annexure 13 to the writ petition. In the light of the order of this court the petitioner has been reinstated, and she has allowed to discharge her duty uninterruptedly till her superannuation on 31.05.2021.

Mr. Singh further submitted that all of a sudden again vide memo no.362 dated 11.04.2017 the petitioner was placed under departmental proceeding, however, on realizing their mistake vide memo no. 686 dated 19.07.2017 (Annexure- 14) the Regional Deputy Director of Education withdrew the memo no.



362 dated 11.04.2017 by which decision was taken to initiate departmental proceeding against the petitioner and further the memo of charges against the petitioner was also withdrawn by memo No. 776 dated 31.07.2017 (Annexure- 15). In the aforesaid premise as stated above learned counsel for the petitioner submits that it is evident that at present neither any departmental proceeding nor any criminal case is pending against the petitioner and so far the departmental proceeding which was initiated against the petitioner, is concerned, the same has already been withdrawn, apart from the fact that termination order has lost its effect in view of the interim order of this court passed in CWJC No. 19566 of 2016. He next submits that payment of any retiral benefits would always be subjected to the final outcome of the writ application, which is still subjudice and the petitioner is ready to give undertaking that she would be abide by the order passed by this court in CWJC No. 19566 of 2016.

On the other hand, learned counsel for the State vehemently confronted the submissions made on behalf of the learned counsel for the petitioner and submits that during the pendency of this writ application all the other retiral/outstanding dues of the petitioner have stood paid. She submits that till date the petitioner has stood paid 90 per cent of gratuity and pension, apart



from full GPF. She submits that the final pension and gratuity will be sanctioned subject to the final disposal and outcome of the CWJC No. 19566 of 2016.

At this juncture Mr. Singh submits that GIC was already sanctioned much earlier but till date that has also not been paid to the petitioner.

Having heard the learned counsels for the parties and considering the materials available on record, I find substance in the submission made on behalf of the writ petitioner that there is no impediment in allowing the rest of the retiral benefits including the leave encasement, GIC, 10 per cent of gratuity, pension and regular pension as of now neither there is any termination order in existence for the time being nor any criminal case is pending against the petitioner. Moreover, the enquiry report submitted by the CBI has never been accepted nor any FIR has been instituted against the petitioner.

Further the action of the respondent defy logic in withholding of small portion of retiral benefits, that too in absence of any rules/regulation in support of the action of the respondent and ensuring payment of substantive retiral benefits.

In view of the aforesaid facts and circumstances, the action of the respondent authorities in withholding the part of the



retiral benefits of the petitioner does not per se appear to be justified and legal. It is needless to say that any payment of the retiral dues would always be subject to final outcome of the CWJC No.19566 of 2016, which is pending adjudication before the court.

Accordingly, the present writ application stands allowed, the respondent authorities are directed to ensure the payment of rest of the retiral benefits of the petitioner within a period of eight weeks from the date of receipt/production of a copy of the order.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2022.
Transmission Date	NA

