IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2072 of 2021

Asha Kumari wife of Late Dukhan Prasad resident of Mohalla Haranichak, P.O. Anisabad, P.S. Beur, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Education Officer, Patna.
3. The District Superintendent of Education, Patna.
4. The District Provident Fund Officer, Patna.
5. The Accountant General, Bihar at Patna.
6. The Principal, Mangal Pal Yadav High School, Jivrakhan Tola, Maner, District Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr. Madhukar Mishra, (AC to SC 16)
For the AG	:	Mr. Arun Kumar Arun, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 21-11-2022

Heard Mr. Rajesh Ranjan, learned counsel for the petitioner, Mr. Madhukar Mishra, learned AC to SC 16 and Mr. Arun Kumar Arun, learned counsel for the Accountant General.

By filing the present writ application, the petitioner seeks quashing of the Memo No. 3012 dated 18.04.2019 as contained in Annexure 2 passed by the District Education Officer, Patna, whereby, the claim of the petitioner with regard to payment of House Rent Allowance for the period 01.05.1997 to 30.12.1997 and 31.07.2002 to 31.07.2009, as also the payment against earned leave of 100 days and arrears of salary has been rejected.

It is submitted that the petitioner superannuated on 31.07.2009 from the post of Assistant Teacher in Rajkiyakrit Uccha Vidyalaya, Jivrakhan Tola, Patna. He further submits that after superannuation of the petitioner, substantive retiral dues of the petitioner has stood paid, however, the same has been paid in a piecemeal manner. He next submits that though the petitioner is entitled for earned leave of 280 days, however, she has been allowed only earned leave for 180 days and her claim for payment of 100 days un-utilized earned leave has been wrongly rejected. He next submits that the petitioner is also entitled for House Rent Allowance for the period, which has been mentioned in paragraph no. 1 of the writ application, but the same has been denied in a most arbitrary manner only on account of the fact that two addresses have been furnished by the petitioner, which caused difficulty in making the enquiry. The next contention of the petitioner is that before passing the impugned order, the petitioner has not been given any proper opportunity of hearing nor she has been asked to furnish any papers/documents in support of her claim and only an empty formality of disposing the representation of the petitioner has been done by the concerned respondents authority.

Mr. Rajesh Ranjan, further drawn the attention of this Court towards the impugned order as contained in Annexure 2 dated 18.04.2019 and submits that the order speaks that the deduction towards the General Provident Fund (GPF) for the period of 1991-1992 and 1996-1997 has been received and the same has been sent to the District Provident Fund Officer, Patna on 18.04.2019 for issuance of the authority letter, however, the same has not been received till date. He further submits that the impugned order suggests that the remaining amount under the head of GIC to the tune of Rs. 51,607/- would be made available to the petitioner through CFMS, but this amount has also not been received till date.

He next contended that by somehow or the other, the petitioner was implicated in a criminal case in connection with some matrimonial dispute and due to which she was taken into custody for the period of 19.07.2009 to 31.07.2009 and the salary for the said period was not paid, though the petitioner has already been acquitted from all the charges vide judgment and order dated 29.07.2016 passed in Session Trial No. 865 of 2012 , the copy of which has been brought on record, by way of Annexure 5 to the writ application, but despite assurance, the salary for the aforementioned period has been given to the petitioner. It is also submitted that there had also been assurance for payment of other outstanding dues, but none of the outstanding dues has been paid to the petitioner.

At this juncture, learned counsel for the State, by referring to the statements made in the counter affidavit submits that all the substantive amount under the different heads of retiral dues have stood paid to the petitioner and so far the amount under the GPF and the GIC are concerned, the same would be paid to the petitioner within a short period of time, if not paid.

Having heard the learned counsel for the parties and considering the materials available on record, prima facie, the reasons assigned by the respondent no. 2 in rejecting the claim of the petitioner for House Rent Allowance and Leave Encashment does not show any application of mind, apart from the fact, the grounds for rejection is stated to have difficulty has arisen in conducting enquiry, hence, the claim of the petitioner has been rejected, appears to be wholly, unjustified and uncalled for. So far the rejection of the claim for leave encashment is concerned, though it is observed that fresh calculation has been made, but, the same has not been provided to the petitioner, hence, the petitioner was deprived to rebut and make her submission. In view of the aforesaid facts, the impugned order of rejection on these ground appears to be wholly unjustified and, as such, this Court set aside the impugned order as contained in Annexure 2 to the extent, whereby, the claim of the petitioner has been rejected for House Rent Allowance and Leave Encashment.

This writ application stands disposed of with a direction to the petitioner to file a representation before the respondent no. 2 along with the requisite documents/papers in support of her claim within a period of four weeks. If such a representation is filed before the respondent no. 2, he would be under obligation to consider the same and pass reasoned and speaking order preferably within a period of eight weeks, thereafter.

It is needless to say, that if any of the amount under the head of the GPF and GIC or any outstanding dues have not been paid to the petitioner, who superannuated way back in the year 2009, the same must be paid within the aforesaid period, failing which, appropriate order would be passed against the erring officials. The respondent no. 2 is directed to consider the claim of the petitioner for salary for the period of 19.07.2019 to 31.07.2009 also, in view of the fact that the petitioner is acquitted from all the charges.

Accordingly, the present writ application stands disposed of with the aforesaid observation and direction.

At this juncture, learned counsel for the State submits that since the details of deduction have already been sent to the General Provident Fund Officer for issuance of the authority slip, he may be directed to issue the same, if not issued till date.

The District Provident Fund Officer, Patna is hereby also directed to ensure the payment of the GPF amount, if not already paid, within the aforesaid period.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.11.2022.
Transmission Date	NA