

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2828 of 2021

Vimla Pathak wife of Late Uma Shankar Pathak residing at Ward No. 24, Bettiah, District- West Champaran- 845438.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, New Secretariat, Patna.
3. The Accountant General (A and E), Bihar, Bir Chand Patel Path, Patna.
4. The Treasury Officer, Bettiah, West Champaran.
5. The Director, Provident Fund Directorate, Finance Department, Pant Bhawan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha, Advocate.
For the Respondent/s : Mr. Sudhir Kumar Singh, AC to SC-23.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

9 22-11-2022 Heard Mr. Arun Kumar Sinha, learned counsel for the petitioner and Mr. Sudhir Kumar Singh, learned AC to SC-23 for the State.

The petitioner has filed the present writ application seeking following directions:-

(a) To issue a writ of mandamus commanding the respondents to make payment of retiral dues i.e. leave encashment due to the petitioner, which has not been paid as yet.

(b) To issue a writ of mandamus commanding the respondents to treat the petitioner on duty and make payment of the salary with interest for the period treated as Extraordinary leave i.e. from 12.02.2004 to 28.05.2004, 22.09.2005 to 01.07.2009 and 25.04.2010 to 13.09.2011 as mentioned in



Health Department's memo No. 121(3) dated 05.02.2020 issued by the Health Department, Government of Bihar as contained in Annexure-11 and further to quash memo No. 121(3) dated 05.02.2020 to the extent it has treated the aforementioned period as extraordinary leave by issuing a writ of cetiorari.

(c) To issue a writ of mandamus commanding the respondents to sanction half pay leave and special half pay leave for treatment of cancer from 13.09.2012 to 26.08.2015 as admissible under Rule 232 and 243 Note – 3 of the Bihar Service Code and thereby make payment of the leave salary.

(d) To any other relief or reliefs for which the petitioner may be found to be entitled.

It is submitted that during the pendency of the present writ application, an interlocutory application was also filed seeking further reliefs for payment of other outstanding dues including the GPF amount for certain periods of 2015-16 to 2016-17.

In compliance of the order of this Hon'ble Court dated 02.11.2022, a counter affidavit has been filed on behalf of the respondent no. 5.

Learned counsel for the State by referring to the statements made therein submitted that the late husband of the



petitioner has already paid his GPF amount on the basis of the available deduction statement vide authority letter bearing no. PA/2018/FP/1307 dated 24.08.2018 amounting to Rs. 19,74,189/-. It is further submitted that the deceased husband of the petitioner has not been paid his salary for the period of 1980-81 to 1982-83, 1998-99 to 2000-2001, 2003-04 to 2004-05 and 2007-08 to 2008-09 and neither the advance has been taken nor any contribution has been made by the deceased husband of the petitioner during the said period, so no question arises for deduction statement. He further submits that there is no remaining dues under the GPF head as per the deduction statement made available.

At this juncture, learned counsel for the petitioner drawn the attention of this court towards annexure 18 to the Interlocutory Application as contained in memo no. 434(3) dated 27.03.2019 issued by the Officer on Special Duty, Health Department to the Assistant Commissioner, Provident fund Directorate, Finance Department, Pant Bhawan, Patna, which shows that certain deductions for the period from 2015-16, 2016-17 and 2017-18 have been sent for final payment. It is also submitted that since the erstwhile employee is no more survive to place his case, hence, the respondent authorities are under



obligation to consider the case and pass a reasoned and speaking order taking into consideration the letter contained in memo no. 434 (3) dated 27.03.2019.

Having considered the submissions made on behalf of the parties, the present writ application stands disposed of with a direction to the petitioner to file a representation for any of his remaining amount of GPF along with the necessary documents in support of his claim within a period of four weeks. If such a representation is filed before the respondent no. 5, he shall consider the case of the petitioner by taking into account the letter contained in memo no. 434(3) dated 27.03.2019 issued by the OSD, Health Department and pass reasoned and speaking order preferably within eight weeks thereafter.

It is needless to say that if the petitioner is found entitled for any of the amount under the head of the GPF, the same shall be paid to her within the aforesaid stipulated period.

Accordingly, the present writ application stands disposed of.

(Harish Kumar, J)

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