IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2160 of 2020

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Uma Sinha, Wife of Late Lakhendra Prasad Singh, resident of Shree Krishna Vihar Colony, Yadav Nagar, Road No. 1, P.O. Bhagwanpur, P.S. Muzaffarpur Sadar, District-Muzaffarpur.

... ... **Petitioner**

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
5. The District Programme Officer (Establishment) Muzaffarpur, District-Muzaffarpur.
6. The Treasury Officer, Muzaffarpur District- Muzaffarpur.
7. The Block Education Officer, Saraiya, District- Muzaffarpur.
8. The Accountant General, Bihar, Patna.

... ... **Respondents**

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Appearance :

For the Petitioner	:	Mr.Vijay Kumar Singh, Advocate
For the State	:	Mr.Ashutosh Ranjan Pandey (AAG15)
For the A.G.	:	Mr.Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 08-09-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Accountant General.

2. It appears that despite substitution having been allowed by order dated 22.08.2023, the Office has not carried out the corrections in the name of the petitioner. Let it be done at once.

3. By filing this writ application the original petitioner (since deceased) prayed for the following reliefs:

"(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter dated 05.07.2019 issued under the signature of the Respondent no. 5 and contained in his memo no. 2165 dated 05.07.2019, whereby and whereunder the Respondent no. 5 was pleased to request the Respondent no. 6 to stop the payment of gratuity of the petitioner since the petitioner is under the departmental proceeding.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the part of the order dated 03.08.2019 issued under the signature of the Respondent no. 6 whereby and whereunder the Respondent no. 6 has been pleased to held up the payment of D.C.R.G. (Gratuity) pursuant to the letter no. 2165 dated 05.07.2019 issued by the Respondent no. 5.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for payment of the amount of gratuity to the petitioner amounting Rs. 11,15,070/- as sanctioned by the Accountant General, Bihar, Patna vide memo no. 14/PEN010219141278/201911141191 PO dated 27.02.2019.

(IV) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for payment of the aforesaid amount of the gratuity with statutory as also pendentelite interest on the ground that if the delay in payment is directly and solely attributable to the Respondents, the petitioner is entitled to receive the aforesaid payments with interest.

(V) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."

4. The grievance of the petitioner was against the withholdment of the gratuity amount on the ground of pendency of a proceeding under the Bihar Civil Services (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the "Rules of 2005").

5. A counter affidavit has been filed on behalf of the State which has been sworn by the District Programme Offier (Establishment). The counter affidavit, in paragraph '6', reads as under:

> "**6**. That after review of the request application of the wife of the petitioner as well as report submitted by the Headmaster of the Identified Middle School Manikpur bearing Letter No. 142 dated 07.07.2021 in connection with the petitioner's case by the order of District Education Officer, Muzaffarpur, Respondent No. 4 of the present writ petition, this deponent has exonerated the petitioner from the departmental proceeding and has given the order for release of the gratuity amount bearing the memo no. 2894 dated 13.07.2021 and the copy of the same has been forwarded to Treasury Officer, Muzaffarpur for doing the needful action.
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> A photostat copy of the aforesaid memo no. 2894 dated 13.07.2021 has been annexed herewith and marked as Annexure-A to this counter affidavit."

6. It appears that despite exoneration of the original petitioner (since deceased) and dropping of the departmental proceeding against him, till date the consequential action towards payment of gratuity amount has not been paid, in the meantime, the original petitioner died during the Corona period.

7. In the circumstances, this Court directs the Accountant General, Bihar (respondent no. 8) to issue the authority slip for release of the gratuity amount of the husband of the substituted petitioner within a period of four weeks from today, thereupon the payment must be made to the petitioner with another period of four weeks.

8. The State respondents (respondent nos. 1 to 7) are jointly and severely directed to ensure that appropriate orders/directions be issued, if so required, at their end to facilitate the payment within the aforesaid period.

9. It goes without saying that the gratuity amount shall be paid together with the statutory interest.

10. This Writ Application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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