**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.8242 of 2021**

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1.1. Mitho Devi, wife of Late Rama Nath Jha Shashi @ Ram Nath Jha Shashi Resident of Village-B arsam, P.S. Rudrapur, District- Madhubani.

1.2. Wachaspati Nath Jha Mani, Son of Late Rama Nath Jha Shashi @ Ram Nath Jha Shashi, Resident of Village-Barsam, P.S. Rudrapur, District- Madhubani.

1.3. Bindhya Nath Jha, Son of Late Rama Nath Jha Shashi @ Ram Nath Jha Shashi, Resident of Village-Barsam, P.S. Rudrapur, District- Madhubani.

1.4. Kadambani Amit Kumar Jha, Wife of Amit Kumar Jha, Resident of Village - Navnagar, P.S. - Rudrapur, District- Madhubani.

1.5. Nandini Kumari, Wife of Vijoy Chaudhary, Resident of Village - Sahuriya, P.S. - Andhratharhi, District- Madhubani.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Madhubani
5. The District Programme Officer, (Establishment), Madhubani.
6. The Accountant General, Bihar, Patna.
7. The Treasury Officer, Jhanjharpur, District- Madhubani.
8. The In-Charge Head Master, Chandeshwar and High School, Harari, P.S. - Rudrapur, District- Madhubani.
9. Mr. Chandra Mohan Sinha, the then Drawing and Disbursing Officer, Chandeshwar +2 High School Harari, P.S. - Rudrapur, District- Madhubani.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Uday Bhanu Roy, Advocate |
| For the Respondent/s | : | Mr. Madhaw Pd. Yadaw, GP-23 |
| For the AG, Bihar | : | Mr. Bindhyachal Rai, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

ORAL ORDER

11 05-12-2024 Heard Mr. Uday Bhanu Roy, learned counsel for the petitioners, Mr. Madhaw Prasad Yadav, learned counsel for the

State and Mr. Bindhyachal Rai, learned counsel for the Accountant General.

2. The petitioner was duly appointed on the post of Assistant Teacher (Sanskrit) on 19.04.1983; and after serving a long unblemished period of more than 34 years, he had superannuated on 30.11.2018.

3. The averment has been made that on being superannuated, the petitioner has handed over his entire charge to the present In-charge Head Master on 28.02.2019. Despite superannuation of the petitioner, when he was not accorded all his admissible retiral benefits, he approached before all the authorities concerned but to no avail, compelling him to approach before this Court in C.W.J.C. No. 851 of 2020. After filing of the said writ petition, finally, the petitioner has been given all the retiral benefits, including G.P.F., G.I.S. and Gratuity but, surprisingly, an amount of Rs. 1,84,032/- has been deducted from the earned leave encashment amount. On being aggrieved, the petitioner again approached before this Court by filing the present writ petition.

4. While the matter was pending consideration before this Court, in the meantime, the sole petitioner died on 24.07.2021 and, as such, an interlocutory application bearing

I.A. No. 1 of 2024 was filed and the legal heirs of the deceased-petitioner have been substituted in his place.

5. It is the contention of the newly substituted petitioners that on account of inadvertence while filing the writ petition, the erstwhile employee did not assail the order dated 22.09.2020, whereby the District Programme Officer has directed the Senior Treasury Officer, Jhanjharpur to ensure the payment of leave encashment only after deducting an amount of Rs.1,84,032/-. The petitioners thus contended that either they may be allowed to assail the order dated 22.09.2020 in the present writ petition or if they would be given liberty to bring the entire facts before the Director, Secondary Education, Government of Bihar, Patna, there is every chances that they will get justice. It is also the contention of the petitioners that the father of the petitioners rendered 34 years of service but he had not been extended the benefit(s) of ACP/MACP

6. On the other hand, learned counsel for the State opposed the prayer of the petitioners and submitted that once the decision deducting an amount of Rs.1,84,032/- was taken after hearing the erstwhile employee way back on 22.09.2020 and the said order has not been challenged by the erstwhile employee, the same cannot be allowed to challenge by the substituted legal

heirs.

7. Upon hearing of the parties, this Court finds that the very prayer of the erstwhile employee was payment of leave encashment, which are said to have been illegally deducted. However, the impugned order could not be questioned at the time of filing of the writ petition and unfortunately before the matter could have been finally taken up, the sole petitioner died on 24.07.2021. Thus, admittedly, the challenge in the present writ petition was the illegal deduction of leave encahsment to the tune of Rs. 1,84,032/-.

8. In the aforesaid premise, considering the restricted grievance of the petitioners, this Court thinks it fit and proper to dispose off the writ petition with a liberty to the petitioners to approach before the respondent no. 3, the Director, Secondary Education, Government of Bihar, Patna, for agitating the grievance as has been raised before this Court by filing an appropriate representation.

9. Suffice it to observe that if such representation is filed by the petitioners, preferably within a period of four weeks from today, the respondent no.3 shall consider the same on merit(s) and pass a reasoned and speaking order within a further period of eight weeks.

10. The writ petition stands disposed off.

**(Harish Kumar, J)**

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