

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6575 of 2011

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1. Most. Ziaksh Devi W/o Late Moti Lal Srivastawa, Resident of Village Post Madhubani Ghat, P.S. Mufassil Motihari, Distt. East Champaran Motihari Pin Code 845401.
 2. Sri Amit Kumar S/o Late Moti Lal Srivastawa, Resident of Village Post Madhubani Ghat, P.S. Mufassil Motihari, Distt. East Champaran Motihari Pin Code 845401.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Principal Secretary, Primary Secondary and Adult Education, Govt. of Bihar now known as Human Resources Development Department.
3. The Deputy Secretary Primary Secretary and Adult Education, Govt. Of Bihar now known as Human Resources Development Department.
4. The Principal Secretary, Personnel and Administrative Reforms Department now known as General Administration Department, Govt. of Bihar.
5. The Accountant General, Government of Bihar, Patna.
6. The Principal Secretary, Finance Department, Government of Bihar.
7. The Director, Adult and Non Formal Education now known as Director Mass Education, Government of Bihar, New Secretariat, Patna.
8. The District Mass Education Officer, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar No.2, Adv.
For the Respondent/s	:	Mr. Manoj Kumar, AC to GP-4
For the AG, Bihar	:	Ms. Supragya, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 22-01-2024

Heard Mr. Dhananjay Kumar No.2, learned counsel



for the petitioner; Mr. Manoj Kumar, learned counsel for the State and learned counsel for the Accountant General, Bihar.

2. Initially the writ petition was filed by the widow and son of Late Moti Lal Srivastawa for a bundle of reliefs. However, during the pendency of the writ petition, most of the grievances of the petitioners have been redressed, barring the grievance with regard to the payment of arrears of salary for retrenchment period of Late Moti Lal Srivastawa, which has been accorded to all others employees in the light of the order/judgment passed by the Hon'ble Apex Court and the consequential Resolution No. 582 dated 20.05.2005

3. It is to be noted that during the pendency of the writ petition, petitioner no.1, widow of Late Moti Lal Srivastawa has died on 14.12.2020 and for expunging her name, Interlocutory Application No. 1 of 2023 has been preferred.

4. In view of the submissions, I.A. No. 1 of 2023 stands allowed.

5. Office is directed to expunge the name of petitioner no.1, Most. Ziaksh Devi from the cause title of the writ petition.

6. Needless to say that petitioner no. 2 is the son of late employee (Moti Lal Srivastawa), who is pursuing the matter.



7. Learned counsel for the petitioner submitted that other identically situated persons, whose services were also terminated and unfortunately before their absorption, they were attained their age of superannuation but they have been allowed the salary and other benefits for the period during which they were remained out of the service on account of retrenchment. He further submitted that the respondent(s) at one hand accepted the claim of the petitioner that the father of the petitioner was entitled to get all the reliefs or the benefits for his retrenchment period, but on the other hand, they are not making any payment of the same and, as such, the stand of the State is not in accordance with law. Various orders/judgments have been brought on record, including the order passed by the High Court of Jharkhand at Ranchi in W.P.(S). No. 574 of 2008.

8. In response to the aforesaid submissions, a counter affidavit has been filed on behalf of respondent no.1.

9. Referring to the letter no. 429 dated 24.11.2007 as contained in Annexure-4 to the writ petition, submission has been made on behalf of the State that the claim of the petitioner was duly considered by the Director Mass Education, Bihar, Patna. However, it has been found that the father of the petitioner had already died on 28.05.2004 much before the



issuance of Resolution No. 582 dated 20.05.2005 and, as such, in no circumstances, his claim for absorption/adjustment could be made. He, thus, submitted that in view of the rules 45(a) and 59 of the Bihar Pension Rules, 1950, the claim of the petitioner cannot be acceded, as on the date of death, the father of the petitioner was not in service.

10. This Court has carefully perused the materials available on record as well as the order(s) on which the reliance has been made on behalf of the petitioner.

11. Having carefully gone through the records, this Court finds that the benefits have been accorded only to those Non-Formal Supervisor(s), who have either been alive or have reached superannuation, the date on which Resolution No. 582 dated 20.05.2005 issued pursuant to the order of the Hon'ble Apex Court. But so far as the present case is concerned, admittedly, the father of the petitioner has died on 28.05.2004 itself much prior to the issuance of the afore-noted resolution, directing for absorption/adjustment of retrenched Non-Formal Supervisor. Thus, in any case, there cannot be any absorption/adjustment of the services of the father of the petitioner, who was not alive on the date on which resolution was issued.



12. Accordingly, the present writ petition stands dismissed, sans any merit.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-01-2024
Transmission Date	

