

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.759 of 2023
In
Civil Writ Jurisdiction Case No.11109 of 2022

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1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
 3. The Director, Secondary Education, Govt. of Bihar, Patna.
 4. The Director (Primary)-cum-Additional Secretary, Education Department, Government of Bihar, Patna.
 5. The Regional Deputy Director of Education, Tirhut Division, District-Muzaffarpur.
 6. The District Magistrate, Muzaffarpur, District-Muzaffarpur.
 7. The District Education Officer, Muzaffarpur, District-Muzaffarpur.

... .. Appellant/s

Versus

1. Shrivastava Saroj Kumari Wife of Krishna Kumar Prasad, Presently residing at Balu Ghat, C/o Rajehs Kumar Shrivastava, P.S.-Town Thana, Muzaffarpur, District-Muzaffarpur, retired as Incharge Principal, Chapman Balika Uchha Madhymic Vidyalaya, Muzaffarpur.
2. The Accountant General (A and E) Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Anil Kumar (A.C. to G.P.20) Mr. Mrigendra Kumar, AC to GP20 Mr. Rajeev Ranjan, AC to GP20
For the Respondent/s	:	Mr.S. M. Ehtesham, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-07-2024

The appeal is filed by the State against the judgment of the learned Single Judge, which interfered with the withholding of 100% pension imposed on the writ petitioner. The facts are identical to that in which such withholding of



pensions and orders of termination were interfered with by this Court in LPA No. 1219 of 2023, titled as ***Kamini Kumari & Ors. vs. The State of Bihar & Ors.*** and its analogous cases.

2. In ***Kamini Kumari*** (supra) the judgment in ***State of Bihar vs. Md. Idrish Ansari; 1995 Supp. 3 SCC 56*** was followed, which was followed in the impugned judgment also. We find absolutely no reason to entertain the appeal and the appeal stands dismissed.

3. It is also to be noticed that in the present case, the Government had conceded before the learned Single Judge that the matter was similar to ***Kumari Manju Lata*** in CWJC No. 3361 of 2020 referred to in the impugned order. The learned Government Advocate in the appeal submits that there is substantial difference between ***Kumari Manju Lata*** and the present case, since in the former case, there was no departmental proceedings initiated prior to the superannuation. In the present case, the proceedings were initiated prior to the superannuation and it was converted after superannuation under Rule 43(b) of the Bihar Pension Rules.

4. We cannot but notice that in the present case also as has been found in ***Kamani Kumari***, the petitioner was appointed as a teacher on 18.04.1981 and she retired from



service as a Lecturer on 13.11.2017. In 2016, the proceedings were initiated and after retirement in 2018, an inquiry report produced as Annexure-7, was submitted wherein the petitioner was exonerated of the charges. Again, after three years, a further show cause notice was issued as per Annexure-8 and the punishment as per Annexure-11 was imposed with-holding 100% of the wages. The facts of the case are similar to that in ***Kamani Kumari*** (supra). We also notice that the petitioner was exonerated of the charges in the inquiry proceedings and the Disciplinary Authority had issued a second show cause notice after three years from the date of submission of Annexure- 7 inquiry report exonerating the petitioner.

5. The writ petitioner, who is a respondent herein, submits that the writ petitioner has not been disbursed with the pension till date, despite the judgment having been passed on 02.03.2023.

6. In the above circumstances, we direct the arrears of pension to be disbursed within three months from today and if not, the arrears would carry 5% interest from the date on which it is due till the date of payment. The interest liability if mulcted on the State, the State would be entitled to fix it on whichever officer who committed default and recover the same.



The appellant would be restored the pension from July, 2024 also.

7. The appeal stands dismissed.

8. Interlocutory application, if any, shall stand disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
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