IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8451 of 2012

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DR.SHEELA KHAN W/O Sarit Kumar Roy R/O House No. - 295, Patliputra Colony, P.S.- Patliputra, Town and District- Patna

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Principal Secretary Health and Family Welfare Department, Government Of Bihar, Patna
3. Deputy Secretary Health and Family Welfare Department, Government Of Bihar, Patna
4. Director, Provident Fund, Pant Bhawan, Bailey Road, Patna
5. Treasury Officer Vikash Bhawan, At Sub-Treasury, New Secretariat, Patna
6. Accountant General (A and E), Bihar, Birchand Patel Path, Patna-1

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Roona, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar, S.C.-9

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
Date : 06-02-2024

Heard Ms. Roona, learned counsel appearing for the petitioner and Mr.Kinkar Kumar, learned S.C.-9 appearing for the State.

2. The writ application has been filed for the following reliefs:-

(I) For quashing of order dated 13.07.2010 as contained in Annexure-10, whereby the service of the petitioner has not been treated as continued till she attained the age of superannuation on 17.04.1998.

(II) Issuance of an order, direction or writ in the nature of mandamus commanding the Respondents to modify the sanction order dated 21.12.09 contained in Annexure-3 whereby the petitioner has been made to superannuate w.e.f 15. 07.1975 instead of 17.04.1998, the day she attained the age of superannuation and for payment of consequential benefits.

(III) For a direction upon the Respondents to treat the petitioner in continued service till she attained the age of superannuation on 17.04.98 for the purposes of payment of pension and terminal dues.

3. The petitioner was appointed as Medical Officer on 10.10.1963 under Health Services Cadre, Govt. of Bihar and the authority upon her satisfactory service she was made permanent member of State Health Services on 15.07.1974. The petitioner superannuated on 17.04.1998 on attaining age of 58 years. The case of the petitioner was not considered by the authority concerned then the petitioner has approached this Court in CWJC No.13736 of 2008 which was disposed of on 26.03.2009 with the direction to the respondents to settle the retiral due of the petitioner. Pursuant to the aforesaid order, the respondent issued a sanction order for payment of pension and retiral dues vide order dated 21.12.2009 and the petitioner was given retirement with

retrospective effect i.e. w.e.f. 16.07.1975 by the Health Department, Govt. of Bihar. On the basis of sanction order of the Health Department, the Accountant General had issued a pension payment order in favour of the petitioner w.e.f. 16.07.1975. The petitioner represented before the respondent No.2 on 26.03.2010 requesting him to modify the sanction order and to make her superannuated on the date she attained the age of superannuation i.e. on 17.04.1998 in place of 15.07.1975.

4. Learned counsel for the petitioner submits that as per Rule 73 of the Bihar Service Code , the date of retirement is the age on which an employee attains the age of superannuation and the date of superannuation of the petitioner is 17.04.1998.

5. In view of the aforesaid, the sanction order dated 21.12.2009 to be modified and a fresh order treating her to be in continued service till her age of superannuation i.e 17.04.1998 needs to be issued in terms of the Bihar Service Code and Pension Rules but no action whatsoever taken by the respondents then the petitioner filed again a writ application bearing CWJC No.8106 of 2010 and this writ application was disposed of on 07.05.2010 directing the respondents to consider the claim as claimed by the petitioner and disposed of the same in accordance with law. After disposal of the CWJC No. 8106 of 2010, the petitioner has

represented on 17.05.2010 requesting the respondent authority to treat her as superannuated w.e.f. 17.04.1998 in place of 15.07.1975. The respondent-authority had examined the representation of the petitioner and rejected the claim of the petitioner vide order dated 13.07.2010 which is under challenge in the present writ proceeding.

6. A counter affidavit has been filed on behalf of the Accountant General in which it is stated that the payment of the pensionary benefit of the petitioner is concerned that the Health Department, Govt. of Bihar, vide sanction order No.1907 (2) dated 21.12.2009 accorded sanction for payment of pension and it would be evident from the pension order that the service period up to 15.07.1975 is treated as duty and pension would be paid w.e.f. 16.07.1975 and accordingly, pensionary benefit had been authorized w.e.f. 16.07.1975 on 14.01.2010.

7. It appears from the pleading that the petitioner is aggrieved by the order of the State Govt. dated 21.12.2009 but she has not chosen to challenge the same before this Court in the earlier writ proceeding or in the present writ proceeding and from a bare perusal of the impugned order dated 13.07.2010 which is under challenge in the present writ proceeding, it appears that after 15.07.1975, the petitioner has not produced any evidence that she

was working after 15.07.1975 and as per Bihar Service Code and Bihar Pension Rule, the authority has calculated her service and accordingly the pension payment order has been issued in favour of the petitioner and even in the writ proceeding the petitioner has not stated anywhere that after 15.07.1975 where she was posting and suddenly in the year 2008 she has filed the writ application before this Court.

8. In view of the aforesaid, there is no merit in the writ application, it is, accordingly, dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2024
Transmission Date	NA