IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17577 of 2021

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Rahmat Nasar Widow of Late Iftekharul Hassan, resident of Mohalla-Kashi Takiya, Town/Post-Biharsharif, P.S.-Laheri, District-Nalanda.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Bihar, Patna.
2. The Director (Administration)-cum-Addl. Secretary, Education Department, Bihar, Patna.
3. The Director (Primary Education), Education Department, Bihar, Patna.
4. The District Education Officer, Nalanda at Biharsharif.
5. The District Provident Fund Officer, Nalanda at Biharsharif.
6. The District Treasury Officer, Nalanda at Biharsharif.
7. The Principal, District Education and Training Institute, Noorsarai, Nalanda.
8. The Accountant General, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sidhendra Narayan Singh, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha, GP-27
For the Accountant General	:	Mrs. Nivedita Nirvikar, Sr. Advocate Ms. Supragya, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 10-09-2024

Heard the parties.

2. The petitioner superannuated on 31.10.2010, as a Lecturer, Primary Teachers Training College, Noorsarai (Nalanda), has compelled to approach before this Court by filing the present writ petition seeking a direction upon the respondents to ensure payment of provident fund amount with statutory interest along with the revision of pension and the arrears thereof. The petitioner also sought for a direction to

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ensure payment of eleven months salary for the period January, 2009 to November, 2009 which could not be paid, owing to the latches of the respondent.

3. Learned Advocate for the petitioner contended that initially the petitioner was appointed as a Supervisor in Adult Education Program at Giriak (Nalanda). On account of the closure of the project, the post of Supervisor abolished and the petitioner was retrenched. However, after Court's order, she was absorbed and appointed as Project Officer, Non-Formal Education, Biharsharif way back in they year 1994, issued by the Director, Jan Shiksha, Bihar. The petitioner later on was appointed as Lady Supervisor at Noorsarai, Nalanda and after working so many places, finally superannuated from the post of Lecturer, as noted hereinabove. While the petitioner was being superannuated, she made representation to the respondent Director, Primary Education, Bihar for payment of her pending salary. In response thereto, the Director, Primary Education, Bihar directed the Principal of the College, in question, vide Annexure-1 to take all steps for payment of pending salary for the period January, 2009 to November, 2009.

4. Despite specific direction, as noted hereinabove, the petitioner has not been paid salary, though more than 15

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years have lapsed. It is next contended that apart from the salary, till date, the petitioner has not been accorded the benefit of provident fund.

5. A counter affidavit has been filed on behalf of the respondent no. 3. A categorical assertion has been made that notwithstanding the repeated communication to the petitioner, to furnish the details of deduction made towards GPF account and also to submit the required details in the prescribed performa for including her name in HRMS portal, the same has not been done, resultantly, the payment of admissible dues could not be made. The entire blame has been shifted to the petitioner on account of her non-cooperation. However, with regard to the payment of salary, it has been apprised that the letter has been given to the concerned authorities for allotment of the fund, so that payment of salary could be made. So far the GPF is concerned, it is averred that, till date, the required details appertaining to GPF account has not been received. However, no sooner the required details are provided by the petitioner, the same would be immediately processed for the purposes of payment.

6. Having considered the submissions advanced on behalf of the learned Advocate for the respective parties and

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taking note of the fact that the petitioner superannuated way back in the year 2010 and, till date, the due salary for the year 2009 as well as the GPF has not been paid. There is no denial to the entitlement of the petitioner on the part of any of the respondent authorities. So far the submissions of the prescribed performa for including her name in the HRMS portal is concerned, learned Advocate for the petitioner placed on record the photo copy of performa suggesting that the same has already been done way back on 17.03.2023 itself.

7. This Court failed to understand as to why the respondent authorities are saddling the petitioner with the duty of collection of all the details of deduction made towards the GPF account and submit the required details. Neither any rule or regulations nor there is any guideline which prescribed that it is the employee, who has to furnish the details of deduction made towards the GPF account while working to different places. It is the responsibility of the employer to get it collected from all the offices and ensure the payment of the GPF in favour of the employees.

8. At this juncture, learned Advocate for the petitioner submits that in an identical situation while dealing with a matter where the delay has caused in making payment to all the retiral

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benefits, this Court in the case of ***Lilawati Mishra Vs. State of Bihar & Ors.***, reported in ***(2022) 2 PLJR 671*** directed to ensure the payment of all the retiral dues along with the interest at the rate of 18 %, apart from a cost of Rs. 5,00,000/-.

9. Countering the submission, learned Advocate for the State submits that the petitioner superannuated way back in the year 2010 and the petitioner approached before this Court in the year 2021 and, as such, delay has occurred on behalf of the petitioner. The contention of the learned Advocate for the State appears to be wholly misconceived and not sustainable as the duty is caste upon the State authorities to ensure the payment of all the retiral benefits, just after superannuation of the petitioner and it is recurring wrong on the part of the State authorities. Any unjustified excuse is not expected from a model employer in a welfare state.

10. This Court left with no option but to direct the Director, Primary Education, Bihar, Patna to ensure the payment of salary for the period January, 2009 to November, 2009 as well as the amount of provident fund along with statutory interest, preferably within a period of ten weeks, from the date of receipt/production of a copy of this order.

11. Suffice it to say that a clear averments has been

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made that the petitioner is an old hapless lady, aged about 71 years, suffering from renal ailment and thus, no unnecessary correspondences is required or saddled the petitioner to submit the deduction.

12. Be it noted, the petitioner superannuated way back in the year 2010, in case of failure to abide by the decision of this Court within the period aforenoted, all the payment shall be made with additional interest of 12 per cent;

13. The writ petition stands allowed with the aforesaid direction.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.09.2024
Transmission Date	NA

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