

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6704 of 2010

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1. Subhadra Kumari Retired, Public Health Nurse At Present Residing At
Bharti Book Depot Khajanchi Road, C/O Paras Gupta Naya Tola, P.S.
Pirbahore, Distt.- Patna

.... Petitioner

Versus

1. The State Of Bihar, Through Under Secretary Govt. Of Bihar, Health
Department, New Secretariat, Patna
2. Principle Secretary, Family Planning & Health Department Govt. Of
Bihar, New Secretariat Baily Road, Patna
3. Director In Chief Health Services Govt. Of Bihar, New Secretariat, Baily
Road, Patna
4. Director, Public Health Institute Patna, Office, Near Pmch, Muradpur,
Patna-4
5. Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. (Sc23)

Mr. J.P.Karn

Mr. Kashi Nath Choubey

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

9 04-05-2015

No one appears for the petitioner.

The prayer of the petitioner in this writ application reads
as follows:

“A. For issuance of a writ of Certiorari to quash memo no.
989 dated 18.12.09 and memo no. 1200 dated 19.11.08
and memo no. 888 dated 3.9.08 (Annexure 1 series) here
of by which retiral benefits and increment in salary has
been withheld by respondent no.4 till date.

B. For a command to respondents to make full payment of
pension amount withheld by respondents for twelve
consecutive months after 30.9.2008 (superannuation date
of petitioner) after fixing the same as per sixth pay
revision committee, till the date of payment.

C. For a command to respondents to make payment of

10% deducted pension amount per month from October 2009 till date with penal interest to petitioner till the date of payment.

D. For a command to respondents to make payments of arrears of enhanced pay for the post of Public Health Nurse for twelve years onwards since year 1983 with penal interest to petitioner forthwith till the date of payment.

E. For a command to respondents to make payment of withheld amount of gratuity, Leave encashment and Medical reimbursement amount of Rs.1.10 lakhs with penal interest to petitioner forthwith till the date of payment.”

From reading of the writ application it transpires that the petitioner had retired while holding a post of Nurse on 30.9.2008. According to the averments made in the writ application the respondents had passed an order on 3.9.2008 directing her to file a show cause as to whether she had earned increments without passing the Hindi, Noting and Drafting Examination. The aforesaid order having been not complied by the petitioner till the date of her retirement, when she had taken a plea of automatic exemption on completion of 50 years of age, the same was not accepted and the respondents had sought to make pay fixation of the petitioner and in the meantime has taken a decision for making payment of provisional pension/ gratuity by an order dated 6.8.2009. It also appears that the petitioner was being paid

provisional amount of pension which also was stopped leading to filing of the present writ application. On 5.1.2011 learned counsel for the State had, however, produced an order before this Court restoring payment of provisional pension to the petitioner.

Thus, in absence of the learned counsel for the petitioner this Court would direct the Director. Lok Swasthya Sansthan, Patna to ensure that a final decision with regard to payment of full retirement benefit to the petitioner as also admissible to her must be taken within a period of three months from the date of receipt of this order.

It is made clear that even if the order of recovery of Rs.60,430/- as per office order as contained in Memo No. 767 dated 1.8.2008 is allowed to stand, the petitioner will be entitled for payment of rest of the amount of her retirement benefit. In that view of the matter, whatever payment on the head of retirement benefit is found payable and admissible to the petitioner must be paid to the petitioner within the aforementioned period of three months from the date of receipt of this order.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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