

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12326 of 2015

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1. Poonam Kumari, D/o Late Sheela Kumari, R/o Mohalla -
Mussalahpur behind Middle School, P.O. - Mahendru, P.S. -
Pirbahore, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner-Cum-Secretary, Health Department
Secretariat, Patna.
3. The Additional Director, Health Department, Patna.
4. The Civil Surgeon-cum-Chief Medical Officer, Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamod Kumar Vidyarthi, Adv.

For the State : Mr. Partha Sarthi, GA-4

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 08-08-2016

This application, under Article 226 of the
Constitution of India, has been filed seeking quashing of
an order, dated 23.06.2015, passed by the Civil Surgeon-
Cum-Chief Medical Officer, Lakhisarai, whereby, the
representation, dated 26.10.2010, filed by the petitioner's
mother, in pursuance of this Court's order, dated

27.03.2015, passed in CWJC No. 2282 of 2011, has been rejected.

2. It appears that the petitioner's mother was initially appointed as Lady Health Visitor by the Additional Director of Health Services on 03.04.1982. At the time of her appointment, she claimed to have passed *Praveshika* examination from Hindi Vidyapeeth, Deoghar, Bihar. While she was working as a Lady Health Visitor, her certificate was sent for verification to Deoghar Hindi Vidyapeeth. Upon verification, it was found that the certificate, so produced by her at the time of her appointment, was forged.

3. I need not go into the dates of events, which took place thereafter. Suffice it to say that pursuant to an order of this Court, passed in L.P.A. No. 20 of 2010, an One Man Enquiry Committee, headed by Mr. Justice Uday Sinha, found the appointment of the petitioner's mother to have been fraudulently obtained, in his report, dated 09.08.210.

4. Despite coming to the conclusion that the appointment of petitioner's mother was fraudulently obtained, in the facts and circumstances of her case, the Committee opined that no recovery of salary, already paid to her, should be made.



5. The petitioner's mother, thereafter, had approached this Court by filing a writ application, under Article 226 of the Constitution of India, which had given rise to CWJC No. 2282 of 2011, seeking direction for payment of post-retiral dues on the basis of service of 21 years, rendered by her as Lady Health Worker. During the pendency of the said application, the petitioner's mother died and in her place her daughter, namely, Poonam Kumari, came to be substituted as petitioner. The said writ application was disposed of by judgment, dated 27.03.2015, with a direction to the Civil Surgeon, Lakhisarai, to dispose of the representation, dated 26.10.2010, filed by the mother of the petitioner, which was pending before him. In the light of the said order, the representation of petitioner's mother has been disposed of by the impugned order.

6. I do not find any legal or factual infirmity in the order passed by the Civil Surgeon-Cum-Chief Medical Officer, Lakhisarai, which is impugned in the present writ application. Taking a compassionate view, the One Man Committee had observed that no recovery of payments, as has already been made to the petitioner, should be made. The said concession given by the One Man Commission would not have entitled the petitioner's mother to claim

pension under the Bihar Pension Rules, since her initial appointment was itself found to have been obtained fraudulently.

7. I do not find any merit in this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.8.2016
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