

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17128 of 2017**

=====

Smt. Kamala Pandey widow of Late Dr. Akshawar Nath Pandey, Lecturer, Dhanwantri College and Hospital, Ahirawala, District- Buxar, at present residing at Shanti Sewa Sadan, Main Road, Tarka Nala, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Director, Directorate Indigenous Medicine, Department of Health, Government of Bihar, Patna.
4. The Principal, Dhanwantri College and Hospital, Buxar.
5. The Accountant General, Bihar, Patna.
6. The Senior Deputy Accountant General Admin, Office of Accountant General, Bihar, Patna.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                                   |
|----------------------|---|-------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Anand Kumar Ojha, Advocate<br>Mr. Ashok Kumar Karna, Advocate |
| For the State        | : | Mr. Manish Kumar, AC to GP-12                                     |
| For Acct. General    | : | Mr. Mukesh Kumar Rana, Advocate                                   |

=====

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL ORDER**

2      27-05-2020                      Heard Mr. Anand Kumar Ojha, learned counsel appearing on behalf of the petitioner, learned counsel for the State as well as the Accountant General.

Unfortunately, the widow has to approach this Court once again for payment of dues of her husband. Earlier the petitioner had approached this Court in CWJC No. 21775 of 2012. After the order dated 18.3.2012, the respondents have issued order on 10.4.2013 granting family pension. After the order dated 10/12.4.2013 contained in Memo No. 365 the writ



application was finally disposed of on 21.6.2013. The respondents thereafter issued family pension in favour of the petitioner counting the service rendered by the husband of the petitioner with effect from 1.6.1986 to 21.6.1998.

When the petitioner filed the present writ application raising a grievance of denial of payment of salary for the aforesaid period, despite the respondents have admitted service period of the late husband of the petitioner i.e. 1.6.1986 to 21.6.1998. The petitioner has filed the present writ petition challenging the letter No. 76 dated 15.4.2017 and the letter No. 161 dated 19.12.2016 issued by the Principal, Dhanwantari Ayurvedic College and Hospital, Buxar.

Mr. Anand Kumar Ojha, with reference to Annexures 1 and 6 would submit that Annexure-1 is the order revoking suspension of the husband of the petitioner which admits that revocation of suspension is with effect from the date of suspension. The order contained in Annexure-1 is dated 7<sup>th</sup> April, 1994. The suspension of the husband of the petitioner was revoked with effect from 23.6.1993. He referred to Annexure-6 to submit that the respondents have admitted the service of the husband of the petitioner for the purpose of pension from 1.6.1986 to 21.6.1998 and therefore it is admitted that the



husband of the petitioner has worked. With reference to the order dated 18.3.2013, Mr. Ojha submitted that this Court has noted that no proceeding was initiated against the husband of the petitioner for unauthorized absence and as such the respondents cannot be allowed to raise issue that the husband of the petitioner has not worked.

Per contra, learned counsel for the respondents, with reference to the counter affidavit of the Principal of the College, would submit that the Principal on the basis of the verification of the record, has submitted that there is no document available in the office of the Principal of the College to show that the husband of the petitioner had actually worked in the college from 1993 to 1998.

So far as the claim of the petitioner for payment of salary for the period the husband of the petitioner was put under suspension is concerned, the order of suspension was revoked vide order dated 7<sup>th</sup> April, 1994, the Court is of the considered view that the respondents cannot dispute payment of salary of late husband of the petitioner for the period 23.6.1993 till 7<sup>th</sup> April, 1994. when the suspension was revoked with effect from the date of order of suspension, the natural corollary requires that the husband of the petitioner was entitled to payment of



salary for the period from 23.6.1993 to 7.4.1994. Accordingly, the respondents are hereby directed to ensure payment of salary to the petitioner for the aforesaid period, if not already paid, within a maximum period of one month from the date of receipt/production of a copy of this order.

So far as the payment of salary after 7<sup>th</sup> April, 1994 to 21<sup>st</sup> of June, 1998 is concerned, the respondents are hereby directed to provide fresh opportunity of hearing to the petitioner before taking any adverse decision on the entitlement of salary for the period from 8<sup>th</sup> April, 1994 to 21<sup>st</sup> of June, 1998. The entire exercise, after opportunity of hearing to the petitioner, shall be completed by the respondent No. 3, the Director, Directorate of Indigenous Medicine, Department of Health, Government of Bihar, Patna within a maximum period of three months from the date of receipt/production of a copy of this order.

In the event the petitioner is not in a position to personally approach the Director, Indigenous Medicine, respondent No.3, the petitioner may be heard through her representative and the Director shall pass reasoned and speaking order after hearing the petitioner or her representative in this regard. Necessary order afresh may be passed apart from



payment of salary for the period as indicated hereinabove,  
within a maximum period of three months as indicated  
hereinabove.

With the aforesaid, the writ petition stands disposed  
of.

**(Anil Kumar Upadhyay, J)**

spandey/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

