

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.574 of 2020

Subhash Chandra Prasad, aged about 62 years, Gender- male, Son of Late Bundi Prasad Resident of Chaudhrain Chak, Masathu (Barh), P.S.- Barh, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Director in Chief, Health Services, Government of Bihar, Patna.
4. The Deputy Director, Health Services, Government of Bihar, Patna.
5. The Director, Tuberculosis, Government of Bihar, Patna.
6. The District Magistrate, Nalanda at Biharsharif.
7. The Civil Surgeon -cum -Chief Medical Officer, Nalanda at Biharsharif.
8. The Additional Chief Medical Officer -cum- Drawing and Disbursing Officer, District Tuberculosis Centre, Nalanda at Biharsharif.
9. The District Tuberculosis Officer, Nalanda at Biharsharif.
10. The Director, Provident Fund, Patna, Bihar.
11. The District Provident Fund Officer, Nalanda at Biharsharif.
12. The Additional Deputy Superintendent cum Assistant Additional, Chief Medical Officer (Sonchari Rog and Tuberculosis Control), Nalanda at Biharsharif.
13. The Accountant General of Bihar, Patna.
14. The District Account Officer, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Bhairaw Nand Sharma, Adv.
For the State	:	Mr Manoj Kumar Yadav, AC to GA-10
For the AG	:	Mr. Chaitanya Swaroop, Adv.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-07-2022

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Accountant General.

2. The petitioner had earlier worked as Tuberculosis
Assistant in between March 1987 to April 1993. The services of



the petitioner was terminated in view of the orders passed in SLP (Civil) Appeal No. 10758-19/95 Thereafter, he was again appointed on 02-01-2001 on the same post; from which he has retired on 31-01-2017. The petitioner, prior to his retirement, was paid some amount i.e. Rs. 92908/- on account of Group Insurance, the same has, thereafter, been directed to be recovered by communication dated 27-09-2019 issued by the Additional Chief Medical Officer- cum -Drawing and Disbursing Officer, District Tuberculosis Centre Nalanda at Biharsharif (Respondent No.8). The allegation in the order of the recovery is that this payment was in excess of the petitioner's entitlement.

3. Learned counsel for the petitioner submits that at the rate of Rs. 80/- per month the petitioner was contributing towards Group Insurance Scheme in March 1987 to April 1993 and the amount paid, is due to the petitioner under the head of Group Insurance for this earlier service period. The petitioner, has, therefore, objected to the recovery of the said amount. The Authorities have considered the objection of the petitioner and have rejected the petitioner's claim by assigning a reason that the entire records in relation to the petitioner's services in between 1987 to 1993 are in custody of the Vigilance



Department. Since thousands of appointments made during that period are pending vigilance enquiry. They have, thus, expressed their inability to verify that the payment made to the petitioner was due, for want of relevant records.

4. The plea raised by the respondents is self defeating and inherently unsustainable. If for want of records, the authorities are unable to ascertain what is the amount due to the petitioner then this Court is unable to appreciate on what basis they have concluded that the petitioner was not entitled to the same, when the voucher by which payment was made (Annexure-1) is containing the petitioner's Group Insurance account number and is also issued by the Assistant Chief Medical Officer, Nalanda.

5. The amount once, paid, if at all was required to be recovered then the minimum that the authorities were required to do is to issue a notice to the petitioner and allow him an opportunity to state the details of his contribution or examine the issue regarding the entitlement with reference to the records. In absence of such examination based on any records and without complying the principles of natural justice, the order dated 27-09-2019 (Annexure-6) and order dated 09-11-2019 (Annexure-9) insofar as it direct for recovery of the amount is found to be unsustainable and is hereby quashed.



6. The records reveal that the it was on account of this dispute that other claims of the petitioner including GPF was being withheld by the authorities. For the remaining retiral dues of the petitioner the Civil Surgeon cum-Chief Medical Officer, Nalanda at Biharsharif (Respondent no.7) is directed to pass a reasoned and speaking order giving therein the details of calculation of the petitioner's entitlement and make payment of due and admissible amounts under the various heads of retiral dues within a period of four weeks from the date of receipt/production of a copy of this order.

7. Within the same time, amount due as a consequence of quashing of Annexure(s) 6 and 9 should also be paid to the petitioner.

8. The writ application is allowed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23-07-2022
Transmission Date	

