

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9999 of 2023

Namita Sen Gupta, Female, aged about 61 years, Wife of Praphul Banjerjee,
Resident of Ward No. 6, Near Railway Water Tank, Post Office and Police
Station- Sugauli, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
2. The Director in Chief, Health Department, Government of Bihar, Patna.
3. The Accountant General (A and E), Bihar, Patna.
4. The Civil Surgeon- cum- Chief Medical Officer, Sadar Hospital Motihari, District- East Champaran.
5. The In Charge Medical Officer, Sadar Block, Motihari, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the State	:	Mr. Mujtabaul Haque, GP-12
		Mr. Manish Kumar, AC to GP-12
For the A.G.	:	Mr. Bindhyachal Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 05-09-2023

Heard Mr. Anil Kumar, learned counsel appearing
on behalf of the petitioner; Mr. Mujtabaul Haque, learned GP-12
appearing on behalf of the State and Mr. Bindhyachal Rai,
learned counsel for the Accountant General, Bihar.

2. The In-Charge Medical Officer, Sadar Block,
Motihari, East Champaran, has communicated a letter no. 35
dated 02.02.2023 to the District Treasury Officer, Motihari, that
a sum of Rs. 3,48,962/- has been paid in excess to the petitioner
and directed the District Treasury Officer, Motihari, to recover



the said amount at his own level. The petitioner had retired from the post of A.N.M. (Auxiliary Nurse Midwifery) from the Block Hospital, Sadar Block Motihari, East Champaran.

3. This Court finds that the direction contained in Memo No. 35 dated 02.02.2023 is without jurisdiction and such direction to the Treasury Officer to deduct Rs. 3,48,962/-, being passed without affording petitioner any opportunity of hearing which affects the petitioner adversely and being penal is not in accordance with law. The law relating to recovery from 'Group-C & D' employees is well settled by the Apex Court in case of ***State Of Punjab & Others Vs. Rafiq Masih (White Washer) & Anr.*** reported in ***[(2015) 4 SCC 334]***. Petitioner is not responsible for any misrepresentation or misappropriation and the same cannot be recovered from the petitioner. Accordingly, the order and direction contained in Memo No. 35 dated 02.02.2023 is set aside.

4. This Court directs the District Treasury Officer, Motihari, East Champaran, to communicate the bank to make payment of the pension as fixed by the Accountant General, Bihar in accordance with law.

5. The Additional Chief Secretary, Health Department, Government of Bihar, is directed to take



appropriate legal action against the officers who have incorrectly fixed the provisional pension of the petitioner and gratuity in accordance with law.

6. With above observation and direction, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/Nilmani

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	06.09.2023
Transmission Date	N/A

