

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11866 of 2021

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Vivekanand Sharma S/o Late Satya Narain Rai, R/o Mohalla Adarsh Colony
Kalambagh Road, P.S. Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-Cum-Commissioner,
Department of Health, Bihar, Patna.
2. The Joint Secretary, Department of Health Bihar, Patna.
3. The Director-in-Chief, Health Services, Bihar, Patna.
4. The Accountant General, Bihar, Patna.
5. The Civil Surgeon-Cum-Chief Medical Officer, Muzaffarpur.
6. The Treasury Officer, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Shankar Thakur, Advocate
For the Respondent/s	:	Mr. S D Yadav, AAG-9
		Mr. Braj Bhushan Mishra, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 28-10-2024 Heard Mr. Shambhu Shankar Thakur, learned
Advocate for the petitioner and Mr. Braj Bhushan Mishra,
learned Advocate for the State.

2. The petitioner, who superannuated on 31.07.2019
from the post of Medical Officer, Primary Health Center,
Bochha, Muzaffarpur has preferred the writ petition seeking a
direction upon the respondent to ensure payment of retiral
benefits with an additional prayer to insert the name of his wife,
Kiran Kumari, in the pension papers.

3. Learned Advocate for the petitioner, at the outset,



contended that during the pendency of the writ petition, the claim of the petitioner with regard to the remaining retiral benefit is concerned has already been redressed and the entire admissible amount is paid. However, with respect to the additional relief sought for by the petitioner to insert the name of his wife in the pension papers, the same came to be rejected by order as contained in Memo No. 1391 (2) dated 08.10.2021 in terms of Clause-7(ii) of the Circular No. 9505/vi dated 03.10.1964. Learned Advocate for the petitioner contended that so far the Clause-7(ii) of the Circular No. 9505/vi dated 03.10.1964 is concerned, the same has already been repealed vide amendment as contained in Memo No. PC-1-MIS 2290/9961 (vi) dated 03.09.1996. The copy of which has been placed on record as Annexure-5 to the writ petition. The translated copy of the relevant part of the aforementioned circular is extracted, hereinbelow:-

“On the above noted decision of Govt. of India. State Govt. on careful consideration has decided to delete the Finance Department Memo No. 9505/vi dated 03.10.1964 Clause- 7(ii) Comment (2) and has decided to include of family pension Scheme 1964 to such wife/husband who have become wife/husband even after superannuation and to grant of family pension benefit to such wife/husband.”

4. In view of the submissions advanced on behalf of



the petitioner, this Court finds that the order impugned as contained in Memo No. 1391 (2) dated 08.10.2021 is not sustainable and accordingly, hereby set-aside. The writ petition stands allowed with a direction to the concerned respondent nos. 1 and 2 to consider the claim of the petitioner in the light of the amended circular, as noted hereinabove and pass a reasoned and speaking order, preferably within a period of 12 weeks, from today.

(Harish Kumar, J)

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