

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3395 of 2023

In
Civil Writ Jurisdiction Case No.14872 of 2021

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Chinta Devi W/o Late Ramsat Singh, Resident of Village - Gopalbari, P.S.
Mashrakh, District - Saran Chhapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary, Public Health Engineering Department Govt. of Bihar, Patna.
2. Mr. Ashok Kumar Engineer in Chief Public Health Engineering Department Govt. of Bihar, Patna.
3. The Superintending Engineer Public Health Engineering Department, Saran, Chhapra.
4. The Executive Engineer Public Health Engineering Department Saran at Chhapra.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma, Advocate
Mr. Pratik Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-08-2024

Heard Mr. Arbind Kumar Sharma, learned counsel
along with Mr. Pratik Kumar Sinha, learned counsel appearing
on behalf of the petitioner and Mr. Upendra Pratap Singh,
learned AC to SC-4 for the respondent/s.

2. Learned counsel appearing on behalf of the
petitioner informs this Court that a recent order has been passed
by the Engineer in Chief, Public Health Engineering
Department, Govt. of Bihar, Patna- opposite party no. 2 and a
show cause has been filed on behalf of the opposite party no. 4



communicating the information that Opposite Party No. 2 considering the representation dated 03.10.2023 filed on behalf of the petitioner has passed an illegal order inconsistent with the Rule 58 and 59 of the Bihar Pension Rules, 1950, as well as, the law laid down by the Division Bench of this Court in case of ***Registrar General, Patna High Court vs. Ram Vyas Dubey & Ors. (L.P.A. No. 198 of 2016) arising out of CWJC No. 15761 of 2013***, wherein, a similar question was under consideration. The Division Bench, after proper analysis of the fact of that case, which is quite similar to the fact of the present case, has in paragraphs no. 10 and 11 of the said judgment has taken note of the provision of Rules 58 and 59, as well as, Memo No. Pen 1024/69/11779 F., dated 12-8-1969 and held that even if a person has worked in a temporary capacity and has not been confirmed, if his service on any post is continuous and is for more than 15 years, then it may be considered as pensionable under Rule 59 of the Bihar Pension Rules, 1950. Learned counsel further submitted that in the order dated 24.04.2024 contained in Memo No. 505 is also inconsistent with the law laid down by the Apex Court in case of ***Prem Singh vs. State of Uttar Pradesh & Ors.*** reported in ***(2019) 10 SCC 516*** and also a recent judgment in case of ***Uday Pratap Thakur & Anr. vs. The***



State of Bihar (Civil Appeal No. 3157 of 2023) and non consideration of the law laid down by the Apex Court, the order being contrary to the provision of Bihar Pension Rules, 1950, as well as, the aforementioned judgment of the Apex Court, only penalized the petitioner and is against the principle of law laid down by the Apex Court in case of *D.S. Nakara vs. Union of India* reported in (1983) 1 SCC 305. Learned counsel further submitted that in total defiance of the order passed by the Apex Court and the spirit of the order passed by this Court in CWJC No. 14872 of 2021, the Opposite Party No. 2 is admittedly under contempt for having passed the order contrary to law.

3. Per contra, Mr. Upendra Pratap Singh, learned AC to SC-4 for the respondent/s submitted that considering the scope of contempt jurisdiction and after the order having been complied, no interference is called for by this Court in exercise of contempt jurisdiction. He further submitted that if the petitioner is aggrieved by the order dated 24.04.2024 contained in Memo No. 505, he may avail appropriate remedy.

4. Having considered the rival submissions made on behalf of the parties, as well as, considering the law laid down by the Apex Court, I find that the jurisdiction of contempt is very narrow considering the fact that vide order dated



21.09.2023 in CWJC No. 14872 of 2021, I have passed following directions in paragraph no. 3, 4 and 5, which *inter alia* are as follows:

- "3. Considering the aforesaid submission made on behalf of the petitioner and considering the fact that the petitioner is being harassed by the authorities who are not making payment of retiral dues as well as fixing the family pension of the petitioner in accordance with law. The respondent no.2 – The Engineer-in-Chief, Public Health Engineering Department, Bihar is directed to call for the service particulars of the husband of the petitioner from the office where he had died in harness on 09.08.2016 and ensure to redress the grievance of the petitioner as prayed for in the present writ petition within a period of four weeks and not to harass an old lady who is entitled to receive pensionary benefits including family pension. It has been held by the Apex Court that pension is a property. The petitioner is also entitled for interest on account of delay.*
- 4. In case of failure of payment of pensionary due, the petitioner is at liberty to take appropriate legal action against the concerned respondents, if grievance of the petitioner is not redressed.*
- 5. The writ petition, accordingly, stands disposed of."*

5. The petitioner, if so advised, may avail appropriate remedy in accordance with law.
6. Accordingly, the present contempt petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	28.08.2024
Transmission Date	N/A

