

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2311 of 2018

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Jai Prakash Singh Son of Late Gorelal Singh, Resident of Village- Ghosaith,
Post Office- Piri Bazar, Police Station- Piri Bazar, District- Lakhisarai.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Deputy Secretary, Department of Home Special, Government of Bihar, Patna.
3. The District Magistrate, Munger.
4. The Secretary, Advisory Council, J.P. Senani Samman Yojna, having office at 2/12, Officers Flat, Sh

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the Respondent/s	:	Md. N.H. Khan, SC-1
For the State	:	Md. Harun Quareshi, AC to SC-01

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT

Date : 14-05-2025

Heard learned counsel for the petitioner and
learned counsel for the Respondent-State.

2. The petitioner has approached this Court for issuance of writ of mandamus commanding and directing the Respondents to finalise and pay the claim of the petitioner for payment of *Samman* Pension under “*J.P. Samman Yojna*” with effect from 01.06.2009 in pursuance to Government Resolution No. 524 dated 15.07.2009 for which the petitioner had submitted application on 04.09.2015 enclosing all the relevant documents; and has further prayed for quashing the Letter No. 211 dated 11.04.2018 (Annexure-9 to I.A. No. 6808 of 2018)



issued under the signature of Special Work Officer-cum-Incharge, J.P. Cell by which the claim of the petitioner for grant of *J.P. Samman Pension* has been refused on the ground that verification of claim could not be done because the original documents were not available in Office.

3. It is the contention of the petitioner that the petitioner was detained under Maintenance of Internal Security Act, 1971 (hereinafter referred to as MISA) by the order of District Magistrate, *Munger* during Emergency on 28.09.1974 (Annexure-3, Annexure-4 and Annexure-5 to the writ application) and the Respondent-State approved the detention order which was also referred to Advisory Board from where the detention of the petitioner on and from 28.09.1974 was affirmed.

4. It is further contended that the Respondent-State came out with a Government Resolution bearing No. 524 dated 15.07.2015 under which a decision was taken to grant *J.P. Samman Pension* to those detained under MISA during the period from 18.03.1974 to 21.03.1977 for at least a period of six months. This pension was payable with effect from 01.06.2009. Further, there was an amendment in the Government Resolution dated 15.07.2015 by Letter dated 01.08.2015 by which certain



facilities were added to be given to persons eligible to receive *J.P. Samman Pension*. Application was invited by Press Communication dated 09.10.2015 from eligible persons and accordingly the petitioner submitted his application. The Respondent-Deputy Secretary sent the application of the petitioner to Respondent-District Magistrate, Munger seeking report on certain points. The learned counsel for the petitioner submits that the petitioner had submitted a representation dated 23.09.2016/29.04.2017 to the Respondent-Secretary, Department of Home (Special) intimating that in light of Clause-IT of Resolution dated 15.07.2015, if the date of entry in jail was recorded but the date of leaving the jail was not available then 21.03.1977 would be deemed to be the date of leaving the jail. The learned counsel for the petitioner, therefore, submitted that from perusal of Annexure-3 read with Annexure-4 and further read with Annexure-5 of the writ application, it was clear that the petitioner had entered the jail on 28.09.1974 and in view of Clause- IT of Government Resolution dated 15.07.2015, the date of leaving the jail would be deemed to be 21.03.1977, thereby establishing more than six months period of detention, which was the eligibility criteria required for being entitled to receive *J.P. Samman Pension*.



5. In light of the aforesaid facts and circumstances, the learned counsel for the petitioner submits that the decision contained in Letter No. 211 dated 11.04.2018 issued under the signature of Special Work Officer-cum-Incharge, J.P. Cell by which the claim of the petitioner has been rejected manifestly appears to be erroneous and fit to be set aside for the reason that if the original records are not available in the Department to verify the claim of the petitioner then the petitioner cannot be held responsible for the same and denied his right.

6. Per contra, the learned counsel appearing for the State submits that the order of rejection of the claim for pension being made by the petitioner is proper and justified and hence, the present writ application does not have any merit and it should be rejected/dismissed.

7. Annexure-3 is the Memo No. 4009 dated 30.09.1974 issued under the order of District Magistrate by which the petitioner was detained under MISA. By Order No. 8107 dated 29.10.1974 (Annexure-4 to the writ application), the Respondent-State intimated the petitioner that in view of Section 11 of MISA his claim was being referred to Advisory Board and the Respondent-State in view of Section 3 (iii) of MISA, order of detention passed by the Respondent-District



Magistrate, Munger was approved *vide* order dated 09.10.1974 (Annexure-5 to the writ application) which was made available to the petitioner on 12.10.1974. All these documents are Government Records which clearly establish the fact that the petitioner was put under detention under the MISA on 28.09.1974 and as per Clause-IT of *J.P. Samman Yojna* (Annexure-1 to the writ application) his deemed date of release from jail would be 21.03.1977. Clearly, the petitioner was under detention for more than six months under MISA during the period from 28.09.1974 to 21.03.1977. While passing the impugned order contained in Letter No. 211 dated 11.04.2018 by which claim of the petitioner has been rejected, it has nowhere been held or observed that the documents (Annexure-3, Annexure-4 and Annexure-5 to the writ application) supplied by the petitioner in support of his claim were either false or fabricated. The ground for rejection of the petitioner's claim is simply that for want of original records, the claim of the petitioner could not be verified. If the original records were not available for verification purposes, the petitioner could not be held responsible or liable for the same and particularly given the fact that the petitioner was relying on government documents for establishing his claim which was not found to be false or



fabricated, the claim of the petitioner ought not to have been rejected.

8. Under the aforesaid facts and circumstances, the rejection of the petitioner's claim contained in Letter No. 211 dated 11.04.2018 (Annexure-9 to I.A. No. 6808 of 2018) is hereby quashed and the Respondent Authorities are directed to grant the benefit of *J.P. Samman Pension* to the petitioner under the *J.P. Samman Pension Yojna* with effect from 01.06.2009. The payment of arrears must be done within three months from the date of production of a copy of this order and regular pension with other facilities should be given to the petitioner as per the *J.P. Samman Pension Yojna*.

9. The writ application is accordingly allowed to the extent indicated above. The Interlocutory Application, if any pending, is deemed to have been disposed of.

(Alok Kumar Sinha, J)

Gaurav Sinha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.05.2025
Transmission Date	NA

