IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3681 of 2025

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Rina Kumari Wife of late Nityanand Singh, resident of Sri Rampuri Colony, NH-28, Bhagwanpur, P.S.-Sadar, Muzaffarpur

... ... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Bihar, Patna
3. The Principal Secretary, Department of Planning and Development, Bihar, Patna
4. The Engineer-in-Chief, Rural Works Department, Bihar, Patna
5. The Engineer-in-Chief, Local Area Engineering Organization, Bihar, Patna
6. The Executive Engineer, Local Area Engineering Organization, Works Division, Jehanabad
7. The Senior Treasury Officer, Muzaffarpur
8. Senior Accounts Officer, Office of the Accountant General, Bihar, Patna
9. The Principal Accountant General, Bihar, Veer Chand Patel Path, Patna

... ... Respondents

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Appearance :

For the Petitioner :	Mr. Prabhu Nath Pathak, Advocate
For the Respondent State:	Standing Counsel-20
For the Accountant General :	Mr. Binod Kumar Labh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL JUDGMENT

Date : 19-09-2025

Heard learned counsel for the parties.

2. The petitioner seeks following reliefs: -

> "(i) For quashing the letter containing Memo No. 1400 dated 01.12.2023 issued by the Executive Engineer, Local Area Engineering Organization, Works Division, Jehanabad to Senior Treasury Officer, Muzaffarpur whereby and whereunder the basic pay of late Nityanand Singh, husband of the petitioner has been reduced from Rs. 94100/- (Level-12) to Rs. 78800/- for the assigning a reason

of no record of passing the Computer Competency Exam or exemption in passing the Computer Examination and hence, deduct the annual increment given to the late Nityanand Singh has been deducted w.e.f. 01.07.2011 in pursuant to the letter of Senior Accounts Officer issued under letter-pension-08/753 dated 21.08.2023 issued by the Senior Accounts Officer, Bihar, Patna and the order of recovery of Rs. 11,74,247 (Eleven lakh seventy four thousand two hundred and forty seven) from retiral dues has been made which is wholly sustainable on fact and in law and contained in Annexure-P/1.

AND

(ii) For quashing the letter containing Memo-pension-08-754 dated 21.08.2023 issued by the Senior Accounts Officer, Office of the Accountant General, Bihar, Patna to the Executive Engineer, Local Area Engineering Organization, Works Division, Jehanabad whereby and whereunder the fixation of basic pay has been made in Rs. 78800/- on presumption of non-passing of Computer Competency Test or exemption from passing the Computer Competency Test since, the Notification No. 1609 dated 24.05.2011 issued by the General Administration Department whereunder passing the Computer Competency Test is required for annual increment w.e.f. 01.07.2011 as contained in Annexure-P/2.

AND

(iii) For the direction to the respondent authority to make payment of pension w.e.f. 01.04.2022 and family pension w.e.f. 19.05.2022 and gratuity of late Nityanand

Singh on basic pay of Rs. 94100 which was fixed at the time of retirement."

3. Learned counsel for the petitioner submits that the petitioner's husband got retired on 31.03.2022, on attaining the age of superannuation, from the post of Junior Engineer. While working in the office of the Executive Engineer, Works Division, Jehanabad, under Rural Works Department, the basic pay of late Nityanand Singh, the husband of the petitioner, was Rs.94,100.00 (L-12), which is said to have been reduced to Rs.78,800.00 by assigning the reason that no record of passing the computer competency examination or exemption from passing of computer competency examination was found in the office record and, accordingly, the deduction of annual increments with effect from 01.07.2011 was calculated. The petitioner's husband is said to have died on 19.05.2022.

4. Learned counsel for the petitioner has drawn the attention of the Court to Annexure-P/5, which is said to have been issued by the Nodal Department, i.e., Department of Water Resources, whereby, the Department, vide office order, as contained in Memo No. 4266 dated 28.12.2021, has come out with a decision showing deemed exemption in a case where the employee has attained the age of 50 years. From the impugned order, it appears that the letter issued by the Nodal Department, as

contained in Memo No. 4266 dated 28.12.2021, has not been taken into consideration and ignoring the same, reduction in the basic pay from Rs.94,100.00 to Rs.78,800.00 has been directed. Accordingly, recovery of the excess amount paid to the petitioner's husband, as against the salary to the tune of Rs. 9,69,227.00 and against encashment of unutilized earned leave to the tune of Rs.2,05,020.00, all together Rs.11,74,247.00, has been directed after the death of the deceased employee.

5. From the impugned letter, as contained in Memo. No. 1400 dated 01.12.2023, it is not forthcoming that any proceeding known to law was ever initiated against the petitioner's husband during his life time or after the death of the deceased employee. The impugned order dated 01.12.2023 has been issued directing deduction with the stipulation that only on recovery of the quantified amount, the pensionary benefits shall be paid in favour of the petitioner.

6. On the other hand, learned counsel for the respondents by referring to various paragraph of the counter affidavit, does not find himself in a position to dispute the fact that the procedure, which is provided under law, was ever adopted before the decision taken for recovery to the tune of Rs.11,74,247.00 or the Government Circular of deemed exemption

issued by the Nodal Department, being Department of Water Resources, was even taken into consideration, which exempts passing of computer competency examination after attaining the age of 50 years. The power of deemed exemption, which the authorities were required to have exercised in the case of this petitioner, has apparently not been exercised and no prudent reason has been assigned in the impugned order for ignoring the principles of natural justice and as also for not invoking the power of deemed exemption in the case of petitioner’s husband during his life time, as per Government Circular dated 01.12.2023, which appended to the writ petition being Annexure-P/1 at Page 19.

7. Considering the submissions of the parties, this Court is of the view that the respondents have miserably failed to adhere the procedures as provided under the law, before inflicting the punitive order of the kind, which falls under the category of major penalty and is issued against the petitioner’s husband, who has already died before the issuance of the impugned order of recovery.

8. In view of the fact that the decision to direct reduction in the basic pay of the petitioner’s husband vitiates in law, therefore, the follow up action to direct recovery on the basis of said reduction to the tune of Rs.11,74, 247.00 is also unsustainable in law and, accordingly, the impugned order dated 01.12.2023 is

set aside and the respondents are directed to restore the basic pay of Rs.94,100.00 (L-12) forthwith and consequential recovery made to the tune of Rs.11,74,247.00 calculated on the basis of such reduction in basic pay be also refunded to the petitioner, who is the wife of the deceased employee.

9. This writ application is allowed.

(Ajit Kumar, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.09.2025.
Transmission Date	N/A