

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12527 of 2021**

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Veena Prasad W/o Late Dr. Ramavtar Prasad R/o Village- Narauli, P.S.-  
Bakhtiyarpur, District- Patna, presently residing at 3SFB- 1/34, Bhootnath  
Road, Near S.B.I. ATM, B.H. Colony, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health and Family Welfare Department,  
Government of Bihar, Patna.
3. The Commissioner-cum- Secretary, Health and Family Welfare Department,  
Govt. of Bihar, Patna.
4. The Deputy Secretary, Health and Family Welfare Department, Government  
of Bihar, Patna.
5. The Director in Chief, Health and Family Welfare Department, Govt. of  
Bihar, Patna.
6. The Accountant General, Government of Bihar, Patna.
7. The Bihar Public Service Commission through its Secretary, 16, Jawahar Lal  
Nehru Marg, Bailey Road, Patna.
8. The Assistant Branch Manager, S.B.I. Main Branch, Gandhi Maidan, Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Dharmendra Kumar Paswan, Advocate<br>Mr. Jai Prakash Singh, Advocate<br>Mr. Amar Kumar, Advocate<br>Ms. Deepshikha, Advocate |
| For the AG, Bihar    | : | Ms. Ritika Rani, Advocate                                                                                                        |
| For the Respondent/s | : | Mr. Ramadhar Singh (Gp25)                                                                                                        |
| For the BPSC         | : | Mr. Sanjay Pandey, Advocate<br>Mr. Nishant Kr. Jha, Advocate                                                                     |
| For the SBI          | : | Mr. Apurv Harsh, Advocate<br>Mr. Raghu Raj Pratap, Advocate                                                                      |

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**CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR**  
**ORAL ORDER**

16    11-09-2025                      Heard the learned counsel for the petitioner, learned  
  
counsel for the Accountant General and learned counsel for the  
  
State.

2. The writ petition has been filed for the following



reliefs :-

*(i) To issue an appropriate order/direction in the nature of Certiorari quashing order dated 15.12.2010 vide Memo No. 1437(a) passed by the Respondent No. 4 wherein the Respondent has arbitrarily seized 75% pension of the deceased husband of the Petitioner and further directing the Petitioner to pay the 75% pension to the Petitioner and the arrears arising thereof;*

*(ii) To issue an appropriate order/direction in the nature of Mandamus directing the Respondent Authorities to pay the remaining 25% pension to the Petitioner along with interest 18% p.a. and the arrears arising thereof as the same has not been paid to the Petitioner since the retirement of the deceased husband of the Petitioner;*

*(iii) To issue an appropriate order/direction in the nature of Mandamus directing the Respondent Authorities to pay the family pension to the Petitioner along with interest @18% p.a. and the arrears arising thereof;*

*(iv) To any other relief or reliefs for which the Petitioners are found entitled to in the facts and circumstances of the case.*

3. Learned counsel for the petitioner contends that the petitioner got retired from the post of Chief Medical Officer on 29.02.2004 and while this petitioner was in service, he was



subjected to departmental proceeding and an inquiry report dated 31.01.2001 came to be submitted, wherein some of the charges were found to be proved, others were partially proved and some were not at all proved.

4. The Departmental Authority acting upon the inquiry report, passed dismissal order against this petitioner and accordingly, the petitioner got dismissed from service on 26.07.2002. The petitioner feeling aggrieved with the order passed by the disciplinary authority in the departmental enquiry, moved before this Hon'ble Court vide C.W.J.C. No.13816 of 2002, wherein the Hon'ble Court vide order dated 14.10.2003 held that the punishment order is unsustainable in view of the proper procedure having not been followed and the impugned order being non-speaking in nature displaying no consideration of cause shown by even a brief discussion, besides the Court further having observed that the severity of the punishment inflicted being disproportionate, consequently held that the impugned punishment was vitiated, particularly insofar as the forfeiture of the entire pension was concerned.

5. Taking into account the aforesaid, the Co-ordinate Bench of this Court was of the view that impugned order of punishment has held to be wholly unsustainable and



appropriately a reduction of 5% of the pension shall meet the ends of justice in view of the findings of misconduct and accordingly, the impugned punishment was modified to the extent indicated above and the writ petition was allowed.

6. It has next been submitted by the petitioner that feeling aggrieved with the said order, the State of Bihar filed L.P.A. No. 987 of 2008, which was heard on 02.02.2010 and the Hon'ble Division Bench was of the view that the appeal needs to be partly allowed by setting aside that portion of the impugned order of the learned Single Judge "where the punishment of forfeiting the entire 100% of the pension of the petitioner was sought to be substituted by inflicting a punishment of forfeiting of only 5% of pension" and accordingly, the whole matter, infact was remitted back to the disciplinary authority, restoring liberty to pass a fresh order of punishment against the respondents by taking into account only such charges, which were found to be proved against him in the departmental enquiry, by following the principles of natural justice. The relevant extract of the order is reproduced here in below :-

*16. Thus on taking an over all view of the matter and in keeping with our aforesaid findings and law settled on this point as discussed above,*



*we would partly allow this appeal by setting aside that portion of the impugned order of the learned Single Judge where the punishment of forfeiting the entire 100% pension of the writ petitioner was sought to be substituted by him by inflicting a punishment of forfeiting of only 5% of his pension.*

*17. The whole matter in fact would now stand remitted back to the disciplinary authority who would be at liberty to pass a fresh order of punishment against the Respondent writ petitioner by taking into account only such charges which were found to be proved against him in the departmental enquiry and observing the principles of natural justice. This exercise however must be, in view of the retirement of the writ petitioner in the year 2004 and uncertainty of his pension in last six years completed within a period of six months from the date of receipt/production of a copy of this order.*

*18. With the aforesaid observations and directions this appeal is allowed only to the extent indicated above. There would be, however, no order as to costs.*

7. Now, the State Government, pursuant to the matter having been remanded for proceeding with the departmental inquiry afresh, in respect of only those charges which are said to be proved against this petitioner by following principles of



natural justice and consequent upon the same, the State-respondent appears to have passed the order of punishment forfeiting 75% of pension by Annexure-4, placed at page 41, which is under challenge.

8. From perusal of the order, it appears that instead carrying out the procedures as provided under the CCA Rules 2005 by supplying requisite evidence/document in support of the allegation, for which the departmental inquiry is said to have been initiated, the disciplinary authority appears to have made a review of earlier order without undertaking any exercise as directed by the Hon'ble Division Bench, and thereby the impugned order has been passed. The respondent-State in a very cryptic manner substituted the earlier order of forfeiture of the entire pension with the impugned order, whereby 75% of pension is said to have been forfeited and from plain reading of the said order, it appears that rest other conditions which were existing in Notification No.89(9) dated 25.01.2007 were left untouched and the modified order to this effect was issued, having been made effective retrospectively.

9. It has next been submitted by the petitioner that the respondents were directed to undertake the procedure known to law, which has been provided in the Bihar CCA Rules, 2005, by



initiating a full fledged inquiry but neither any Enquiry Officer nor any Presenting Officer was appointed and the respondent-State, without calling this petitioner in question, to submit his response with respect to charges which are found proved, for which liberty was restored to them to proceed afresh by instituting a fresh departmental inquiry, the State-respondents in flagrant violation and without even adhering to the principles of natural justice as per the order of Hon'ble Division Bench, the impugned punishment order, has been issued, which deserves to be interfered with, in order to protect the valuable right of the petitioner, who is a widow of the deceased retired employee working under the State government.

10. The counsel for the petitioner further submits that the State-respondents, who were bestowed with certain responsibility before passing impugned order, have actually abdicated their responsibility as provided in law and further, have not chosen to abide by the observations made in the said order passed by the Hon'ble Division Bench.

11. At this stage, learned counsel for the State submits that there is a delay of 11 years in challenging the impugned order, which warrants dismissal of the writ petition on account of delay and laches and consequently barred by limitation. On



the objections so taken by the State counsel, this Court is of the view that the argument of the State is unsustainable because a fresh cause of action will accrue each month, when the harmful financial consequence is a direct result of an ongoing wrongful act or a repeated failure to fulfill a duty and therefore, the ground of limitation which is urged before this Court to contend that writ petition is barred by limitation, is wholly misconceived and is answered accordingly by rejecting the same. The counsel for the State has also not disputed the factual position with respect to non-adherence of procedures, as provided under the Bihar CCA Rules, 2005, while passing the impugned order and therefore, it is crystal clear fact that the impugned order vitiates in law.

12. The principles of law, which governs the procedures to be adopted by the authorities before inflicting any kind of punishment, by holding the delinquent guilty, is prescribed under the CCA Rules 2005, which needs to be followed with greater responsibility and if such procedures, are not followed, then the punishment order whatsoever has been passed, cannot be said to be passed within the parameters prescribed in law and that cannot be given sanction of law by any means.



13. In this regard, judgments rendered on the subject in issues by the Hon'ble Apex Court can be inferred to hold the action of the State in passing such forfeiture order without holding proper procedure to vitiate in law, which can be deduced from the judgments reported in **(2010) 2 SCC 772; State of U.P. v. Saroj Kumar Sinha** and **(2009) 2 SCC 570; Roop Singh Negi v. Punjab National Bank and Others**. From the above proposition in law, it could safely be formulated that the authorities are bestowed with certain responsibility under law and, if punishment of forfeiture or any punitive order causing financial loss to the delinquent is intended to be passed, in that event, complete procedures, as prescribed under the Rules, needs to have been followed, which evidently has not been carried out and therefore, the impugned order of forfeiture to the extent of 75% pension is wholly unsustainable and accordingly, is set aside and the respondents are directed to immediately release the amount, which is said to have been withheld by them to the widow lady of the deceased employee, who is the petitioner in this case, without any inordinate delay.

14. Now, at this stage, learned counsel for the State submits that liberty should be granted to undertake the process of Departmental Enquiry afresh. Since, the liberty which is



being sought was already granted to them by the Hon'ble Division Bench in L.P.A. No.987 of 2008, the State-respondent for reasons unexplained, have deliberately flouted and therefore, after the death of the original employee, no further liberty, in principle, is allowed to cause further harassment to the widow lady. Accordingly, such submission is hereby rejected.

15. Consequently, the writ application is allowed in the above terms.

**(Ajit Kumar, J)**

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