

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17271 of 2023

=====

Pawan Kumar Jha Son of Late Batuk Nath Jha, Resident of Village- Bhithha
Bhagwanpur, Police Station- Madhepur, District- Madhubani. ... Petitioner/s
Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Health Department, Government of Bihar, Patna.
3. The Secretary, Health Department, Government of Bihar, Patna.
4. The Director-in-Chief, Health Services, Government of Bihar, Patna.
5. The Regional Deputy Director of Health, Laheria Sarai, Darbhanga.
6. The Civil Surgeon cum Chief Medical Officer, Madhubani.
7. The Senior Treasury Officer, Madhubani.
8. The In-charge Medical Officer, Primary Health Centre, Madhepur, Madhubani.

... .. Respondent/s

=====

with
Civil Writ Jurisdiction Case No. 16069 of 2023

=====

Raj Narayan Poddar S/o Late Sukhdeo Poddar, resident of Village-Somnaha,
P.S. Chakmahishi, District-Samastipur. Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Director in Chief, Health Service, Government of Bihar, Patna.
3. The Regional Additional Director, Health Services, Darbhanga Division, Darbhanga.
4. The Civil Surgeon cum Chief Medical Officer, Madhubani.
5. The Incharge Medical Officer, Community Health Centre, Babubarhi, Madhubani.
6. The Treasury Officer, Samastipur.

... .. Respondent/s

=====

with
Civil Writ Jurisdiction Case No. 16670 of 2023

=====

Kuwar Munni Devi @ Munni Devi Wife of Late Laxmi Narayan Singh,
resident of village and P.O. - Nariyar, P.S. - Kanti, Dist. - Muzaffarpur. Petitioner/s
Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health, Govt. of Bihar, Patna.



- 2. The Director in Chief (Disease Control Public Health Para Medical), Health Services, Bihar, Patna.
- 3. The Regional Additional Director, Health Services, Tirhut Division, Muzaffarpur.
- 4. The Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur.
- 5. The In-charge Medical Officer, Primary Health Centre, Kanti, Muzaffarpur.
- 6. The Treasury Officer, Muzaffarpur.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 16761 of 2023

Arvind Kumar S/o Late Bechan Ram, Resident of village and P.S.- Chandi, District- Nalanda. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
- 2. The Director in Chief (Disease Control Public Health and Para Medical) Health Service, Bihar, Patna.
- 3. The Civil Surgeon cum Chief Medical Officer, Jamui.
- 4. The Incharge Medical Officer, Primary Health Centre, Sikandra, Jamui.
- 5. The Treasury Officer, Nalanda at Biharsharif.
- 6. The Accountant General, Bihar, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 17963 of 2023

Shail Devi W/o Late Harishchandra Prasad Resident of Village-Pakri Basharat, P.S.-Sahebganj, District-Muzaffarpur. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
- 2. The Director in Chief (Disease Control Public Health and Para Medical) Health Service, Bihar, Patna.
- 3. The Civil Surgeon Cum Chief Medical Officer, Muzaffarpur.
- 4. The Incharge Medical Officer, Community Health Centre, Sahebganj, Muzaffarpur.
- 5. The Treasury Officer, Muzaffarpur.
- 6. The Accountant General, Bihar, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 18408 of 2023



=====

Akhileshwar Prasad S/o Late Ramswrup Lal Deo, Resident of village
Ufardaha, P.S.- Bahera, District- Darbhanga. Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Director in Chief, Health Service, Government Bihar, Patna.
3. The Regional Additional Director, Health Services, Darbhanga Division,
Darbhanga.
4. The Civil Surgeon cum Chief Medical Officer, Madhubani.
5. The Incharge Medical Officer, Primary Health Centre, Laukahi, Madhubani.
6. The Treasury Officer, Darbhanga.

... .. Respondent/s

=====

with
Civil Writ Jurisdiction Case No. 351 of 2024

=====

Satyadeo Singh Son of Late Janardan Singh Resident of Village Banduar, P.S.
Nima Chandpur, District Begusarai. Petitioner/s
Versus

1. The State of Bihar through Additional Chief Secretary, Department of
Health, Governemnt of Bihar, Patna.
2. The Director in Chief, (Rogniyantran Lok Swasthya Para Medical Health
Services, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Regional Additional Director Health Services, Tirhut Division,
Muzaffarpur.
5. The Civil Surgeon Cum Chief Medical Officer, Muzaffarpur.
6. The Incharge Medical Asistant Primary Health Center Kanti, Muzaffarpur.
7. The District Accountant Officer, Muzaffarpur.
8. The District Treasury Officer, Muzaffarpur.
9. The District Treasury Officer, Begusarai.
10. The Accountant General of Bihar, Patna.

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 17271 of 2023)

For the Petitioner/s : Mr. Prafull Chandra Jha,
Mr. Keshav Kumar Jha,
Mr. Rahul Kumar, Advocates.

For the Respondent/s : Mr.Manish Kumar (GP 4)

(In Civil Writ Jurisdiction Case No. 16069 of 2023)

For the Petitioner/s : Mr.Shiv Kumar
Ms. Sweta Burnwal, Advocates



For the Respondent/s : Mr.Rajeshwar Singh (GA 10)
Mr. Pramendra Kumar Singh, AC to GA-10
(In Civil Writ Jurisdiction Case No. 16670 of 2023)
For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : Mr.Binod Kumar Yadav (SC 18)
(In Civil Writ Jurisdiction Case No. 16761 of 2023)
For the Petitioner/s : Mr.Shiv Kumar
Ms. Sweta Burnwal, Advocates
For the Respondent/s : Mr.Pankaj Kumar (SC12)
Mr. Kamlesh Kishore, AC to SC-12
For Accountant General Mr. Sunil Kumar Singh, Adv.
(In Civil Writ Jurisdiction Case No. 17963 of 2023)
For the Petitioner/s : Mr.Shiv Kumar
Ms. Sweta Burnwal, Advocates
For the Respondent/s : Mr.Standing Counsel 11
(In Civil Writ Jurisdiction Case No. 18408 of 2023)
For the Petitioner/s : Mr.Shiv Kumar
Ms. Sweta Burnwal, Advocates
For the Respondent/s : Mr.Pankaj Kumar (SC12)
Mr. Kamlesh Kishore, AC to SC-12
For Accountant General Mr. Sunil Kumar Singh, Adv.
(In Civil Writ Jurisdiction Case No. 17963 of 2023)
For the Petitioner/s : Mr.Shiv Kumar
Ms. Sweta Burnwal, Advocates
For the Respondent/s : Mr. Ajay Behari Sinha, Government Advocate
Mr. Neeraj Raj, AC to GA-8
(In Civil Writ Jurisdiction Case No. 351 of 2024)
For the Petitioner/s : Mr.Sabal Kumar Jha, Adv.
For Accountant General : Mr. Ram Kinker Choubey, Adv.
For the Respondent/s : Mr. Prabhat Kumar, AC to Govt. Advocate (11)
Mr. Shankar Kumar Thakur, AC to GA-11

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV ORDER/ JUDGMENT

18-04-2026

Heard Mr. Prafull Chandra Jha, Mr. Shiv Kumar,

Mr. Sunil Kumar and Mr. Sabal Kumar Jha, learned counsel for the petitioners in the above writ petitions and Sri Manish Kumar, Government Pleader-4 duly assisted by other learned counsel for the Respondent-State and as also Sri Ram Kinker Choubey, learned counsel for the representing the office of Accountant General, Patna, Bihar.

2. All the aforesaid writ petitions have been filed by the persons who were initially appointed as Basic Health



Workers on different dates and years and they continued in service till the date of their retirement/superannuation and were allowed pension and pensionary benefits, which was abruptly stopped by the State Authorities citing common reasons referring to the orders passed by the Hon'ble Apex Court in the case of *State of Bihar & Ors v. Devendra Sharma* as reported in *(2020) 15 SCC 466* and *State of Bihar & Ors v. Kirti Narayan Prasad* as reported in *(2019) 13 SCC 250*.

3. Through bench slips filed on various dates, all these matters were directed to be listed together and accordingly, all the parties were finally heard at length and upon conclusion of hearing, judgment was reserved, which is being adjudicated in the following manner.

4. Since entire pleadings have been filed in the writ petition being CWJC No. 17271 of 2023, so this case is required to be treated as a lead case, and accordingly, for the purpose of adjudication, this case is being taken up as a first case

5. The relief sought for in *CWJC No. 17271 of 2023* is as follows:-

“i) For quashing the order
contained in Memo No. 424 Madhepura



dated 29.09.2023 issued under the signature of the Respondent No.8 i.e. the In-charge Medical Officer, Primary Health Centre, Madhepur (Madhubani) by which a letter was written to the respondent no.7 i.e. the Senior Treasury Officer, Madhubani whereby pension of the petitioner bearing P.P.O. No. 202311041653P0, G.P.O. No. 202311041653 GO & C.P.O. No. 202311041653C0 has been stopped which is illegal because the petitioner has retired from his respective service on 28.02.2023 and his case is not covered by the order of Hon'ble Supreme Court.

ii) For directing the respondent authorities to withdraw the letter contained in Memo No. 424 Madhepur (Madhubani) dated 29.09.2023 on the ground that the case of the petitioner is not covered by the order of Hon'ble Supreme Court as stated in the Memo issued by the respondent no.8.



iii) For directing the respondent authorities to consider the case of the petitioner that the petitioner was appointed on 26.09.1982 on the post of Basic Health Worker by the then Civil Surgeon, Darbhanga, continued in service for a long periods and after termination this Hon'ble Court allowed his writ application in the light of C.W.J.C. No. 6078 of 2009 (Hemchandra Jha Versus The State of Bihar & others), reinstated the petitioner in his respective service and now the petitioner has retired from his respective service on 28.02.2023.

iv) For directing the respondent authority to make payment of "Mandey" for the period from 01.03.2023 to 29.09.2023 on the ground that the petitioner after retirement was engaged on contract and thereafter discharged his duty till 29.09.2023.

v) For all consequential



reliefs to which the petitioner is found entitled in course of hearing of this writ application.

6. During pendency of the writ petition and upon query being made from the State Counsel as to what action has been taken pursuant to the order passed by the Hon'ble Division Bench in the case of the petitioner, namely, Pawan Kumar Jha (CWJC No. 17271/2023) in Letters Patent Appeal No. 292 of 2014, it was apprised that the authorities are said to have passed an order, which is contained in Memo No. 4/vidhi-08-334/23 390(4b) dated 29.10.2025, and the petitioner proposed to challenge the same by filing an appropriate Interlocutory Application, vide Interlocutory Application No. 02/2026 and accordingly additional relief was incorporated as relief no. VI to the main relief portion, which is being taken up together for adjudication as relief no. VI which is as follows:-

“(vi) For quashing the order contained in Memo No. 4/vidhi-08-334/23 390(4b) dated 29.10.2025 issued under the signature of the Respondent No.4 i.e. the Director in Chief, Health Service, Government of Bihar, Patna whereby



representation submitted by the petitioner on 20.12.2021 in compliance of order of Hon'ble Division bench by this Hon'ble court in LPA No.292 of 2014 dated 06.12.2021 has been rejected which is completely arbitrary, illegal and not justified in the eye of law."

7. It is relevant to mention here that insofar as the challenge made by the petitioner vide Interlocutory Application No. 01/2024, with regard to recovery, which was being coerced by the respondents, has been stayed vide order of this Court dated 01.03.2024, as such the issues of recovery is required to be addressed in respect of its validity.

Written arguments/oral submissions of the petitioner in CWJC No. 17271 of 2023.

8. The Learned Counsel for the petitioner submits that the petitioner was appointed on the post of Basic Health Worker (Class-III) on 26.09.1982, vide Memo No. 71 (Annexure P/1). The said appointment was made by the then Civil Surgeon-cum-Chief Medical Officer, Darbhanga, following all prescribed procedures, who was the competent authority to appoint him as class-III employee. The petitioner was transferred from the District of Darbhanga by the order of



R.D.D, Health services Darbhanga *vide* Memo No. 813 dated 18.12.1982, he thereafter joined the office of Primary Health Centre, Madhepur, Madhubani on 21.12.1982. After serving for ten years with dedication, the petitioner was granted his first time-bound promotion on December 11, 1992, *vide* Memo No. 3031, issued by the then Civil Surgeon cum Chief Medical Officer, Madhubani. However, in the year 2001, a show cause notice was asked by the Civil Surgeon, Madhubani and after receiving the same, reply was submitted to the show cause within time. It was categorically stated in the reply that in 1982 he was appointed by the then Civil Surgeon cum Chief Medical Officer, Darbhanga after following due procedure. The petitioner was discharging his duty in the office of P.H.C. Madhepur, but in the meantime, his salary was abruptly stopped, prompting him to file C.W.J.C. No. 12014 of 2002, in which, the Court directed the authorities to release his salary. It is further submitted that the petitioner was discharging his duty with full dedication and honesty in the office of Primary Health Office, Madhepur, despite this, while the case was still pending, the respondent authorities issued a termination letter *vide* Memo No. 3077 on 28.12.2002, without providing a proper opportunity to be heard, which was a clear violation of the principles of



natural justice.

9. It is next submitted by the learned Counsel for the petitioner that the petitioner subsequently engaged in a long series of litigation's to reclaim his service. He first filed C.W.J.C. No. 4453 of 2003 against termination order, which was allowed by the Hon'ble Coordinate Bench on 08.09.2003 along with other 292 analogous matters (reported in **2003(4) PLJR 282**). Although the State preferred L.P.A. No. 1093 of 2003 against CWJC No. 4453 of 2003, it was disposed of on 15.05.2008, in the light of order passed in the case of **State of Bihar & Others v. Purendra Solankit [2006 Vol (3) PLJR 286]**, with the directions to consider the petitioner's representation. When no order was passed by the Respondent/Health Department, the petitioner again filed C.W.J.C. No. 15687 of 2009 for reinstatement on the ground that the petitioner has discharged his duty for more than 20 years.

10. On 03.03.2011, this Hon'ble Court allowed the writ in light of order passed in **C.W.J.C. No. 6078 of 2009 (Hemchandra Jha vs. State of Bihar)**, setting aside the "forged appointee" label and ordering reinstatement and directing the respondents to proceed afresh against the petitioners in accordance with law. These orders are annexed as Annexure P/2



and P/3. It is submitted by the learned counsel that in the case of ***Hemchandra Jha (supra)***, the appointment was done in the year 1982 on the post of Class-III and the appointing authority was same, the then Civil Surgeon cum Chief Medical officer, Darbhanga. Hence, the present petition is similar to the case of ***Hemchandra Jha***. In the case of ***Hemchandra Jha***, an appeal was preferred by the state government bearing L.PA. No. 1207 of 2010, and the Hon'ble Court was pleased to dismiss the appeal on 28.06.2011 (Annexure P/4). It is submitted by the learned counsel that, it clearly shows that the order passed in the case of ***Hemchandra Jha*** was affirmed, and the case of the petitioner is completely different from the case mentioned in the present order dated 06.12.2021 passed in LPA No. 292 of 2014 in which case of the ***State of Bihar & Others v. Devendra Sharma*** [reported in ***2020 (15) SCC 466***] has been referred.

11. Further, it is submitted by the learned counsel that the petitioner's case is fully covered with ***Hemchandra Jha (supra)*** in which appeal was also dismissed by the Hon'ble Division Bench though the petitioner raised all these points in his representation but same was not considered. It is further submitted that after passing order dated 03.03.2011 in CWJC No. 15687 of 2009, the petitioner submitted his joining before



the Civil Surgeon, Madhubani, but his joining was not accepted and as a result, a contempt petition (M.J.C. No. 3268 of 2011), was filed, during the pendency of the MJC, a show cause was filed by the then Civil Surgeon, Madhubani and by way of filing show cause, reinstatement order was brought before the Hon'ble Court. It would be evident from bare perusal of Memo No. 2769 Madhubani dated 01.10.2012 issued under the signature of Civil Surgeon cum Chief Medical Officer, Madhubani, termination letter 3077 dated 28.12.2002 was cancelled and the petitioner was directed to join the post on which the petitioner was working, it was also stated that while issuing letter as contained in memo no. 2769/ Madhubani dated 01.10.2012, consent of the then Principal Secretary of the Department was also taken and since then, the petitioner has worked in his respective service without any break till his retirement i.e., 28.02.2023. Then the petitioner was finally reinstated on 01.10.2012, *vide* Memo No. 2769 (Annexure P/5), which cancelled the original order of termination passed in the year 2002 on 28.12.2022.

12. However, after lapse of three years LPA No. 292 of 2014 was preferred by the State of Bihar and on 06.12.2021 the appeal was disposed of with certain observations/directions to the respondents (Annexure P/6). After



disposal of the said appeal, the petitioner submitted a detailed representation on 20.12.2021 before the respondent No.4 i.e., the Director-in-Chief, Health Service, Bihar, Patna (Annexure P/7) stating all facts in representation supported by relevant documents but without considering the facts of case of the petitioner a general letter was issued under the signature of the respondent no.4 and further the impugned order was issued stopping pension of the petitioner, which is completely illegal in the eye of law. Following his reinstatement, the petitioner served continuously without any break until his retirement on 28.02.2023. Upon retirement, he received all retiral benefits, including G.P.F., Gratuity, and Group Insurance, and his regular pension was fixed under P.P.O. No. 202311041653P0. Due to his dedicated service, the petitioner was even engaged on a contractual basis through Memo No. 594 dated 25.02.2023, at the Primary Health Centre, Madhepur, Madhubani (Annexure P/8).

13. Learned Counsel for the Petitioner further submits that despite the petitioner's long service and when the petitioner was discharging his duty on contractual service, the respondent No. 8, issued a show-cause notice on 29.09.2023, giving him only 24 hours to reply. On that very same day,



Memo No. 424 was issued by the respondent no.8 which was sent to the respondent no.7 i.e., the Senior Treasury Officer, Madhubani, (Annexure P/10) to illegally stop the petitioner's pension. The State had previously preferred L.P.A. No. 292 of 2014, which was disposed of on 06.12.2021, directing the authorities to consider the petitioner's case for which the petitioner submitted a detailed representation on December 20, 2021, explaining that his case was actually similar to the **Hemchandra Jha** case (affirmed in L.P.A. No. 1207 of 2010, Annexure P/4), rather than being covered by the **Devendra Sharma (supra)** case. However, after retirement, pension of the petitioner has been stopped by the respondents which is illegal and thus, the same is fit to be quashed by this Hon'ble Court. It would be evident from a bare perusal of order dated 06.12.2021, the Hon'ble Court has directed the respondents to consider the representation of the employee/writ petitioner but in the case of this petitioner, same was not considered by the respondents.

14. Lastly, it is submitted by the learned counsel for the petitioner that the order passed by the Hon'ble Division Bench comprising of the Hon'ble Chief Justice and Hon'ble Mr. Justice S. Kumar in L.P.A. No. 292 of 2014, [the State of Bihar & others Vs. Pawan Kumar Jha], wherein the Hon'ble Division



Bench has disposed of this appeal and directed the authority to consider the case in the light of ratio laid down in ***Devendra Sharma (supra)*** but the case of the petitioner is not covered by the case of ***Devendra Sharma*** because the case of ***Devendra Sharma*** arises from ***C.W.J.C. No. 6575 of 2009 (Om Prakash & others Vs. The State of Bihar & others)***, which may be verified by the facts. In C.W.J.C. No. 6575 of 2009 and other analogous cases consisting of 319 cases, the order was passed on 06.10.2009 by this Hon'ble Division Bench but, so far, the case of the petitioner is concerned, same was allowed in the light of order passed in ***Hemchandra Jha Vs. the State of Bihar & others C.W.J.C No. 6078 of 2009***. Later on, the order of learned Single Judge was affirmed by the Division Bench in LPA No. 1207 of 2010.

**Entitlement of Renumeration as against
Engagement on contractual basis after superannuation of
the petitioner**

15. It has further been submitted that the petitioner was engaged on contract on 01.03.2023 after his superannuation, the petitioner has not been paid his 'Mandey/remuneration' as it was purely a contractual engagement made by the respondent authority, thus the petitioner is entitled for his Mandey/



remuneration w.e.f. 01.03.2023 to 29.09.2023. Further, L.P.A. No. 292 of 2014 was disposed of by this Hon'ble Court wherein, it was a clear cut direction that the petitioner will raise his points for consideration before the respondent authorities but in the case of petitioner nothing was considered by the respondent which is an apparent violation of the order passed by this Hon'ble Court in L.P.A. No. 292 of 2014.

Submissions On Behalf Of Respondent No. 6/the Civil Surgeon cum Chief Medical Officer, Madhubani And 8/the In-charge Medical Officer, Primary Health Centre, Madhepur, Madhubani

16. Learned Counsel for the respondents submits that the petitioner's initial appointment was illegal as the appointment letter of the petitioner has been found forged by a five-member committee constituted to inquire into the matter. (Factually, Two members of the Committee did not participate in the proceedings nor signed the report but remaining three members submitted its report and this fact was not disclosed in the submissions of respondents). The post of Basic Health Workers is a technical post and the petitioner is not having the required qualification for appointment on the post of Basic Health Worker i.e. Training of Basic Health Worker and this fact



also clearly shows that the appointment of the petitioner is illegal. Following the directions of this Hon'ble Court in the *Purendra Sulankit* case, a Five-Man Enquiry Committee was constituted to investigate such appointments, and in its report, the petitioner was specifically identified at Serial No. 56 showing that the appointment letter was forged as the same has not been issued by the office concerned (Annexure R-6/1). It is submitted that many persons like the petitioner has questioned the termination on the basis of the report of the Five Member Committee and some of the persons had questioned the very validity of the report of the Five Member Committee as is evident from para-17 of the Judgment dated 30.11.2018 passed by the Hon'ble Supreme Court of India in ***Civil Appeal No.8649 of 2018*** (Annexure-R/2), but the Hon'ble Court had held that the State Committee on appreciation of the materials on record has opined that appointment was illegal and *void ab initio* and thus, the Hon'ble Apex Court held that it did not find any ground to disagree with the findings of the State Committee i.e. the Five Member Committee, which has found the appointment letter of the petitioner forged i.e. appointment to be illegal (Annexure-R-6/1 to the counter affidavit).

17. The Learned Counsel on behalf of the Respondent



submits that similarly the Hon'ble Apex Court has considered cases of many persons like petitioner, whose appointment was found illegal by the Five Men Committee in case bearing Civil Appeal No.7879 of 2019 and its analogous cases, which were disposed of *vide* Judgment dated 17.10.2019 passed by the Hon'ble Supreme Court of India and here also the Hon'ble Court allowed the Appeal filed by the State Government relying the report of the Five Men Inquiry Committee. Therefore, in the aforementioned circumstances, it is submitted that the report of the Five Men Committee has attained finality in the light of order passed by the Hon'ble Apex Court and the petitioner's appointment has also been found illegal by this committee as stated above. In para-36 of the Judgment dated 17.10.2019 passed by the Hon'ble Supreme Court of India in Civil Appeal No.7879 of 2019 (Annexure-R-6/3 to the counter affidavit), it has been clarified that no statutory entitlement for salary or consequential right of pension and other monetary benefits can arise, if the very appointment is found illegal.

18. Lastly, it is submitted by the learned Counsel that in the aforementioned circumstances, since the very appointment of the petitioner and similarly situated persons are illegal, they including the petitioner have no right to get any



benefit out of illegal appointment and thus, the petitioner and similarly situated persons are not entitled for pension hence the Department of Health issued letters bearing No.1008(4) dated 11.07.2023 and 1446(12) dated 25.09.2023 directing all the concerned authorities to remove such illegally appointed persons from service/stop pension of such illegally appointed persons and due to delay in giving information regarding stoppage of pension, show cause notice has also been issued vide letter No.1481(12) dated 03.10.2023.

**Rejoinder Of The Petitioner In Reply Of Counter Affidavit
Of Respondent No. 6 And 8**

19. In response to the respondents, the learned Counsel for the petitioner submits that he and another employee, Manikant Jha, jointly moved the Hon'ble Court in C.W.J.C. No. 15687 of 2009 challenging the five-men enquiry committee report dated June 29, 2007. In that report, the petitioner was listed at Serial No. 56 while Manikant Jha at Serial No. 57. Their writ application was allowed on 03.03.2011, in light of the judgment in C.W.J.C. No. 6078 of 2009 (*Hemchandra Jha case*). Following a contempt petition (M.J.C. No. 3268 of 2011), the petitioner and Manikant Jha were reinstated into service on



01.10.2012, vide Memo No. 2769 (Annexure: P/5 to the main writ application), for a kind perusal a copy of writ petition of C.W.J.C. No. 15687 of 2009 filed by petitioner along with one Manikant Jha before this Hon'ble Court is appended with record as (Annexure P/14)

20. The Learned Counsel for the petitioner further highlights that while the petitioner is being harassed following his retirement on 28.02.2023, Manikant Jha, who was listed immediately after the petitioner in the same enquiry report continued to work at the Primary Health Centre, Khutauna, under Respondent No. 6. The petitioner served continuously after his reinstatement in the year 2012, until his superannuation, was paid all retiral dues, and had his pension fixed. However, during the pendency of the present litigation, the authorities issued Memo No. 183 dated 05.02.2024(Annexure P/14), ordering the recovery of the entire amount of retiral dues previously paid to him.

21. It is further stand of the petitioner that the case of the petitioner is not covered by judgment passed in ***Devendra Sharma (supra)***. In L.P.A. No. 292 of 2014 (Annexure P/6), the Hon'ble Division Bench directed the authorities to factually verify, in view of principle enumerated in the said documents,



and to pass a reasoned order. The petitioner submitted a timely representation explaining that his case is fully covered by the ***Hemchandra Jha*** judgment, as he was appointed in the year 1982 by the same competent authority. Consequently, the petitioner submits that the departmental letters and orders stopping his pension and demanding recovery are inapplicable to his case and should be set aside, as his reinstatement was previously upheld by this Hon'ble Court.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 4/the
Director-in-Chief, Health Services, Government of Bihar, Patna

22. Counsel for the Respondents submits that the petitioner's case is a matter of illegal and forged appointment made by the regional authorities of the Health Department in an arbitrary manner, ignoring the constitutional mandates required for public appointments. The petitioner's service as a Basic Health Worker was originally terminated on December 28, 2002, vide Letter No. 3077 issued by the Civil Surgeon-cum-Chief Medical Officer, Madhubani, due to illegal nature of the appointment. Following the directions of this Hon'ble Court in ***L.P.A. No. 946 of 2003 (Purendra Solankit vs. The State of Bihar)*** and the landmark ***Uma Devi's judgment***, the State constituted a High-Level Five-Men Committee to scrutinize



such appointments. Upon detailed examination, the Committee categorized the petitioner's appointment as "forged," listing him at Serial No. 56 of the enquiry report. A copy of the relevant page of this report is annexed to the counter-affidavit as Annexure-R-4/1.

23. Counsel for the respondents further submits that while the petitioner previously succeeded in C.W.J.C. No. 15687 of 2009 (disposed of on March 3, 2011, in light of the *Hemchandra Jha case*), the State challenged this order through L.P.A. No. 292 of 2014. This litigation was part of a broader series of appeals concerning appointments labelled as "forged" or "illegal" by the State Committee. Although some early Letters Patent Appeals (LPAs) were dismissed, the Hon'ble Division Bench, later allowed several LPAs in favour of the State on September 24, 2014, in batch cases like *L.P.A. No. 200 of 2010 (State of Bihar vs. Madhu Kumari)* and *L.P.A. No. 566 of 2010 (State of Bihar vs. Om Prakash)*. In those instances, the Court set aside previous orders that had allowed the writ petitions of such appointees.

24. Learned Counsel for the Respondent further submits that the petitioner seeks the quashing of Memo No. 424 Madhepur dated 29.09.2023, which stopped his pensionary



benefits (P.P.O. No. 202311041653P0) following his retirement on 28.02.2023. The petitioner contends that his appointment as a Basic Health Worker on 26.09.1982 was valid and that his case is not covered by the restrictive mandates of the Hon'ble Supreme Court regarding illegal appointments. However, the respondent maintains that the petitioner's entire service history is predicated on a forged appointment, rendering him ineligible for any post-retiral benefits.

25. Counsel for the Respondents elaborates the factual matrix of the present case that the petitioner was purportedly appointed as a Basic Health Worker on a temporary basis under the Madhepur Surgency vide Memo No. 71(mu) dated 26.09.1982 by the then Civil Surgeon-cum-Chief Medical Officer, Madhepur as mentioned in Para 9 of the 2nd supplementary counter affidavit. He was subsequently transferred to the Madhubani Surgency under the Primary Health Centre, Madhepur, vide Memo No. 2823 dated 09.12.1982. The respondents asserts that these initial actions were performed in an arbitrary manner, completely bypassing the constitutional mandates required for government employment. When the widespread issue of forged and illegal appointments in the Health Department came to light, a show-



cause notice was issued to the petitioner vide Memo No. 2402 dated 17.10.2001 (Annexure R-4/8), to which he replied on 31.10.2001 (Annexure R-4/9) but failed to provide any evidence of a valid, constitutionally-compliant appointment.

26. Counsel for the Respondents further submits that during the verification process when the Civil Surgeon, Darbhanga, informed the Civil Surgeon, Madhubani, vide Letter No. 3944 dated 19.12.2002 (Annexure R-4/10) that there was no record of the petitioner's appointment in their office. The letter explicitly stated that neither the appointment letter nor the issuance register contained any entry for the petitioner, confirming the appointment as non-existent in official records. Consequently, the petitioner's service was terminated by the Civil Surgeon-cum-Chief Medical Officer, Madhubani, through Letter No. 3077 dated 28.12.2002 on the grounds of being a forged and illegal appointment. This dismissal was part of a broader administrative action against several similarly situated individuals, whose appointments were found to be fraudulent.

27. Counsel for the Respondents highlights the litigation history of this matter which involves several rounds of scrutiny by the High Court and the Supreme Court. Following the directions in *LPA No. 946 of 2003 (The State of Bihar &*



Ors. vs. Purnendra Solanki), a five men committee was constituted by the Health Department to scrutinize the validity of appointments in light of the *Secretary, State of Karnataka vs. Umadevi* judgment. The committee's report (Annexure R-4/1) specifically identified the petitioner's appointment as "forged" at Serial No. 56. Although, the petitioner previously sought relief citing C.W.J.C. No. 6078 of 2009 (*Hemchandra Jha vs. State of Bihar*) and was temporarily reinstated, the respondent argues that such reinstatement does not cure the fundamental defect of a forged appointment.

28. Counsel for the Respondents further solidifies his stand by the landmark judgment of the Hon'ble Supreme Court in *Devendra Sharma (supra)*, which settled the issue that illegal or forged appointments do not confer any right to the post or subsequent benefits. The Supreme Court's findings in *Devendra Sharma* , make it clear that when an appointment is found to be forged, as is the case with the petitioner according to the Darbhanga Civil Surgeon's report and the departmental committee, the individual cannot claim parity with regularized employees. The Hon'ble Division Bench in the petitioner's own previous case, LPA No. 292 of 2014, also noted that the distinction between illegal and irregular appointments is now



firmly governed by the *Devendra Sharma* precedent.

29. Learned counsel further submits that the dispute of the forged appointments reached finality before the Hon'ble Supreme Court in the case of *The State of Bihar & Ors vs. Kirti Narayan Prasad (Civil Appeal No. 8649 of 2018, arising out of SLP(C) No. 24742 of 2012)*. In judgment dated 30.11.2018 (Annexure-R-4/5), the Hon'ble Apex Court allowed the appeals filed by the State of Bihar and dismissed the writ petitions filed by the illegal appointees. The Court held that since the appointments were obtained through fake or forged letters or were surreptitiously facilitated by Civil Surgeons without following proper induction processes, they were *void ab initio*. The Hon'ble Supreme Court explicitly noted that such beneficiaries of illegal orders cannot be considered "civil servants" of the State, and therefore, the protections of Article 311 of the Constitution of India or other disciplinary rules do not apply.

30. Counsel for the Respondents lastly submits that in light of the aforementioned facts and the definitive ruling in *Kirti Narayan Prasad (supra)*, the petitioner has no legal right to seek regularization or the restoration of pensionary benefits. As the appointment was *void ab initio*, it never created



a valid employer-employee relationship, thereby precluding any claim to retiral benefits or the invocation of Para- 53 of the *Uma Devi's judgment*. The rejection of the petitioner's representation vide Memo No. 390(4b) dated 29.10.2025 was a necessary administrative consequence of the proven forged documents and the clear judicial precedents established by both the Hon'ble High Court and the Hon'ble Supreme Court. Therefore, the writ application and the interlocutory prayer lack merit and are liable to be dismissed in the interest of justice.

Civil Writ Jurisdiction Case No. 16069 of 2023

31. The relief sought for in CWJC No. 16069 of 2023 is as follows:-

“That the present application is for issuance of a writ in the nature of writ certiorari for quashing the part of the letter with respect to the petitioner issued vide memo no. 2998 dated 27.09.2023 under the signature of the Civil Surgeon cum Chief Medical Officer, Madhubani as contained in Annexure- P14 by which the pension of the petitioner has been stopped with effect from issuance of the letter, without any notice to show cause to him rather only by referring some orders of the Hon'ble Supreme Court in which he was not a party. And further a writ in the nature of writ of mandamus



directing the respondent authorities to pay the pension to the petitioner which is being paid to him regularly till now since after his superannuation from service. And/or pass such other order/orders as this Hon'ble Court may think fit and proper.”

Written arguments/oral submissions of the petitioner in CWJC No. 16069 of 2023.

32. The Learned Counsel for the petitioner submits that the petitioner, Raj Narayan Poddar, having passed his Graduation Examination (B.A. Hons.) in the year 1983 from BRA Bihar University, Muzaffarpur, applied for the post of Health Educator following an advertisement issued by the Civil Surgeon-cum-Chief Medical Officer, Madhubani. Pursuant to his application, the petitioner was directed to appear for an interview September 26, 1989, at 11:00 A.M. in the office of the selection committee vide Memo No. 2256 dated September 19, 1989 (Annexure-P1). It is relevant to state that the Selection Committee, which included the District Welfare Officer, Additional Chief Medical Officer, and Deputy Superintendent of Sadar Hospital, Madhubani, was formally constituted by the competent authority via Letter No. 2238 dated September 16, 1989 (Annexure-P2). Upon being successfully selected by the committee, the petitioner was appointed to the post of Health



Educator in the pay scale of 730-1080 on September 26, 1989, vide Memo No. 2327 (Annexure-P3), and he subsequently joined his duties on October 15, 1989, being posted at the Additional Primary Health Centre, Bhagwanpur, under the Primary Health Centre, Rajnagar, Madhubani.

33. He further submits that during the initial years of his dedicated service, the petitioner was also subject to various administrative orders including Memo No. 2787 dated September 27, 1989 (Annexure-P5) and reference was made to Memo No. 149 dated September 2, 1984 (Annexure-P6). However, the petitioner's services were abruptly and arbitrarily terminated on July 1, 2000, vide Memo No. 1400 (Annexure-P4). Prior to this, the petitioner had also faced administrative challenges as evidenced by Memo No. 2686 dated July 21, 2003 (Annexure-P11), which was part of a larger administrative action affecting multiple employees.

34. The series of litigation involved the petitioner moving this Hon'ble Court in CWJC No. 9759 of 2003, which resulted in a significant order dated January 19, 2005 (Annexure-P9), directing the authorities to look into the grievances of the terminated employees. In the meantime, various communications were exchanged, including Letter No.



4077 dated November 15, 2005 (Annexure-P7), Letter No. 3346 dated November 14, 2007 (Annexure-P10), and Letter No. 921 dated November 30, 2007 (Annexure-P8), as the state authorities were directed on June 26, 2006, to reconsider the cases of affected employees like the petitioner. Despite these directions, the petitioner remained out of service until the matter reached a definitive conclusion through the judicial intervention of this Hon'ble Court, which continuously scrutinized the arbitrary termination and the lack of a proper enquiry into the petitioner's original selection and appointment process.

35. The Learned Counsel for the petitioner further submits that the petitioner finally obtained substantial relief through the order dated November 30, 2009, passed in CWJC No. 14379 of 2009 and analogous cases (Annexure-P12), wherein the Hon'ble Court was pleased to quash the impugned enquiry report and directed the respondents to reinstate the petitioners in their respective positions with all consequential benefits. In strict compliance with this judicial mandate, the petitioner was reinstated in service on May 17, 2012, vide Memo No. 1294 (Annexure-P13), and continued to serve as a Health Educator with full honesty and dedication. The petitioner eventually reached the age of superannuation and retired from



service on September 30, 2021, while posted at the Primary Health Centre, Babubarhi, Madhubani. Following his retirement, all his post-retiral benefits, including pension, gratuity, leave encashment, GPF, and Group Insurance, were duly processed and paid, and he began receiving his monthly pension regularly.

36. Lastly, it is submitted by the Learned Counsel on behalf of Petitioner that the respondent authorities, specifically the Civil Surgeon-cum-Chief Medical Officer, Madhubani, issued an order vide Memo No. 2998 dated September 27, 2023 (Annexure-P14), whereby the petitioner's pension was stopped with immediate effect. This impugned action was taken without any notice to show cause or any opportunity of being heard, which constitutes a gross violation of the principles of natural justice and Article 14 of the Constitution of India. The respondents have purportedly based this decision on certain orders passed by the Hon'ble Supreme Court in cases, where the petitioner was not even a party, making the stoppage of his hard-earned pension legally unsustainable and mala fide. The petitioner, therefore, prays for the quashing of Annexure-P14 and a direction to the respondents to restore his month-to-month admissible pension,



which he had been receiving since his retirement.

SUBMISSION ON BEHALF OF RESPONDENT

NO. 4/the Civil Surgeon-cum-Chief Medical Officer,
Madhubani.

37. The Learned Counsel for the respondent submits that the present writ petition, which seeks the quashing of the order stopping the petitioner's pension, is devoid of merit as the petitioner's very appointment was fundamentally illegal and *void ab initio*. It is submitted that the appointment letter of the petitioner (Annexure-P3 to the writ petition) erroneously describes him as a "voluntary worker" being promoted to the post of Health Educator, whereas no such sanctioned post of voluntary worker existed within the State Government. A Five-Member Committee, formally constituted to examine the validity of such appointments made by regional health authorities in an arbitrary manner, submitted an Inquiry Report (Annexure-A to the Counter Affidavit and Annexure-R/A to the Supplementary Counter Affidavit). In this report, the petitioner's name explicitly appears at Serial No. 143, confirming that his appointment was made in gross violation of the constitutional mandate for public employment.



38. Learned counsel further submits that the findings of the said Committee have been extensively scrutinized and upheld by the Hon'ble Supreme Court of India in several rounds of litigation involving similarly situated persons. Specifically, by the judgment dated 30.11.2018 passed in Civil Appeal No. 8649 of 2018 (Annexure-B to the Counter Affidavit and Annexure-R/B to the Supplementary Counter Affidavit), the Hon'ble Apex Court observed that the State Committee had rightly opined that such appointments were illegal and void, and thus found no ground to disagree with those findings. This legal position was further reinforced by the Hon'ble Supreme Court in its judgment dated 17.10.2019 passed in Civil Appeal No. 7879 of 2019 and analogous cases (Annexure-C to the Counter Affidavit), wherein the appeals filed by the State Government were allowed based on the same Inquiry Report.

39. He submits that a consistent stand by the State authorities is taken, who originally terminated the petitioner's services as Health Educator on 01.07.2000 vide Letter No. 1400 due to the illegal nature of his appointment. While the petitioner and others challenged these terminations, this Hon'ble Court, on 26.06.2006, decided a batch of cases including ***L.P.A. No. 946 of 2003 (Purendra Solankit vs. The State of Bihar)***, directing



the State to constitute a High-Level Committee to reconsider the matters in light of the principles laid down in the *Uma Devi* case. The petitioner's earlier challenge in CWJC No. 10781 of 2003 was likewise disposed of with a direction for the department-constituted Committee to decide the matter, which ultimately culminated in the finding that his appointment fell under the "illegal and forged" category rather than the "irregular" category.

40. Lastly, it is submitted by the Learned Counsel on behalf of Respondent that the stoppage of the petitioner's pension via Memo No. 2998 dated 27.09.2023 (Annexure-P14) was a necessary administrative consequence of the aforementioned judicial findings and departmental communications. These actions were supported by Letter No. 1008(4) dated 11.07.2023, Corrigendum Letter No. 1165(4) dated 04.08.2023, and Letter No. 1311(4) dated 30.08.2023 (collectively marked as Annexure-D in the Counter Affidavit and Annexure-R/E Series in the Supplementary Counter Affidavit). Since an appointment that is void from the beginning cannot confer any legal right to post-retiral benefits, the respondents have acted within their jurisdiction and in accordance with the law as established by the Hon'ble Apex



Court. The respondent authorities, therefore, pray that the writ petition be dismissed as the petitioner is not entitled to any relief based on an inherently illegal appointment.

**REJOINDER ON BEHALF OF PETITIONER IN REPLY
OF COUNTER AFFIDAVIT**

41. In response to the Counter Affidavit filed by the respondents, the petitioner through this Rejoinder submits that the action of the State is hit by the vice of discrimination and lack of parity. The petitioner draws the attention of this Hon'ble Court to the case of a similarly situated employee, Sri Uday Shankar Prasad, whose services were also once under cloud but who has since been granted all admissible ACP/MACP benefits, annual increments, and the entire salary for the period of his termination until reinstatement, as per the order dated 30.11.2022 passed in M.J.C. No. 3948 of 2022 and subsequent office orders (Annexures P16, P17, and P18). It is submitted that while the State has released full financial benefits and regularized the services of other employees appearing in the same inquiry report, the petitioner is being singled out and deprived of his hard-earned pension. This inconsistent approach by the respondent authorities, wherein they apply different standards to similarly placed individuals, constitutes a clear



violation of Article 14 and Article 16 of the Constitution of India, rendering the impugned order for stoppage of pension legally untenable and liable to be quashed.

SUPPLEMENTARY AFFIDAVIT ON BEHALF OF PETITIONER

42. The Learned Counsel for the petitioner by referring to the statement made in Supplementary Affidavit submits that the respondent authorities have failed to consider the judicial finality attained in the petitioner's case, specifically referring to the order dated 06.12.2021 passed in L.P.A. No. 16 of 2014 (Annexure-19). It is submitted that this Hon'ble Court, while adjudicating CWJC No. 15296 of 2009 and analogous cases, had already quashed the inquiry report of the Five-Member Committee which sought to categorize the petitioner's appointment as illegal or forged. The court had observed that the inquiry was conducted in gross violation of the principles of natural justice without providing any opportunity to the employees to defend their cases or examine relevant documents. Since the very foundation of the respondents' claim the inquiry report was judicially set aside, the respondents are now estopped from reviving those dead findings to justify the arbitrary stoppage of the petitioner's pension vide Memo No. 2998,



particularly after the petitioner has successfully completed his entire service tenure and retired without any departmental blemish.

SUBMISSION ON BEHALF OF RESPONDENT NO.

2/the Director in Chief, Health Service, Government of Bihar, Patna.

43. Learned counsel for the respondent submits that the petitioner's claim for the restoration of pension is fundamentally flawed as it arises from an appointment that was "illegal and *void ab initio*". The petitioner's service as a Health Educator was terminated as far back as July 1, 2000, by the Civil Surgeon-cum-Chief Medical Officer, Madhubani, following the discovery of widespread illegal and forged appointments made by regional authorities in total disregard of constitutional mandates for public employment. Although the petitioner initially challenged this termination, his case was part of a broader batch of litigation's including LPA No. 946 of 2003 where the Hon'ble Court directed the State to constitute a High-Level Committee to scrutinize the validity of these appointments in light of the *Uma Devi* case.

44. Upon detailed scrutiny, the State Committee



specifically identified the petitioner's appointment at Serial No. 143 of its report as "illegal," distinguishing it from those categorized as merely "irregular". Under the settled principles of law, particularly those established by the Hon'ble Supreme Court in *State of Bihar v. Kirti Narayan Prasad* and *State of Bihar v. Devendra Sharma*, an individual whose very entry into service is illegal or forged cannot be recognized as a "Civil Servant" of the State. Consequently, such persons are not entitled to the protection of Article 311 of the Constitution, nor are they eligible for any post-retiral benefits, including pension, as their entire tenure is deemed non-est in the eyes of the law.

45. Learned counsel for the respondent submits that the stoppage of the petitioner's pension via Memo No. 2998 dated September 27, 2023, was a necessary administrative correction once the status of his illegal appointment was reaffirmed. The subsequent reasoned order issued on August 20, 2024 (Annexure-21), which rejected the petitioner's representation, was passed in strict compliance with the directions of this Hon'ble Court in LPA No. 16/2014. This order correctly applied the law laid down by the Apex Court, which mandates that where an appointment is found to be illegal rather than irregular, the question of regularization or the grant of



retiral benefits does not arise.

46. In light of these facts, the petitioner's pursuit of a writ of mandamus to compel the payment of pension is legally unsustainable. The State cannot be directed to utilize public funds to pay pensionary benefits to an individual, whose appointment was obtained through means that bypassed the legal recruitment process and was later formally declared illegal by a competent committee. Therefore, it is respectfully prayed that the present writ petition and the accompanying Interlocutory Application be dismissed as devoid of merit.

CWJC No. 16670 of 2023

47. The instant writ petition has been filed for the following relief(s):-

“1. For issuance of an appropriate writ in the nature of a writ of CERTIORARI quashing memo No.415dated15.07.2023 issued under the signature of the In-Charge Medical Officer, Primary Health Centre, Kanti, Muzaffarpur, contained in Annexure P2 by which he, without any inquiry or even show cause notice, has ceased the family pension of the petitioner after 4 (four) years from the date of sanctioning of the said Family Pension, in



compliance of the Order issued under memo no. 2468 dated 15.07.2023 by the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, Order issued under letter no. 1008 (4) dated 11.07.2023 by the Director-Chief (Disease Control Health Para Medical), Health Services, Bihar Patna and the order issued under memo no. 259 dated 13.07.2023 by the Regional Additional Director, Health Services, Tirhut Division, Muzaffarpur and also referring to two orders passed by the Hon'ble Supreme Court to which the husband of the petitioner was not a party.

II). For issuance of an appropriate writ in the nature of a writ of Mandamus directing the concerned authorities not to stop the family pension of the petitioner and to pay month-to-month admissible family Pension to the petitioner which has been paid to her continuously since after the death of her husband.

III). For issuance of any other appropriate writ/writs, order/orders direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

Written arguments/oral submissions of the petitioner in CWJC No. 16670 of 2023.



48. The Learned Counsel for the petitioner submits that the petitioner, Kuwar Munni Devi @ Munni Devi, is the widow of Late Laxmi Narayan Singh, who was originally appointed to the post of Male Ward Attendant (Class-IV post) in the year 1988. This appointment was made by the competent authority following the due process of recruitment on a sanctioned and vacant Class IV post. It is submitted that although his appointment was abruptly terminated in 2003 on arbitrary allegations of submitting forged documents, the same was challenged in C.W.J.C. No. 7610 of 2003, wherein the Hon'ble Court stayed the termination on 27.08.2003, leading to his resumption of service vide Memo No. 1899 dated 04.09.2003. Following a further legal trajectory in L.P.A. No. 946 of 2003 and a subsequent re-examination of original service records directed by the Division Bench on 26.06.2006 in light of the *Secretary, State of Karnataka v. Uma Devi* case, the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, issued Memo No. 2985 dated 04.10.2008, withdrawing the termination and reinstating him unconditionally. The husband of the petitioner continued to work uninterruptedly for more than 30 years on a regular basis under the Department of Health in the district of Muzaffarpur. During his entire service period, no departmental



proceedings were ever initiated, nor was any complaint made against him regarding his service. After serving for over three decades with dedication, the husband of the petitioner retired from his service on 30.11.2018, and upon his retirement, his regular pension was sanctioned and paid to him by the respondent authorities.

49. Learned Counsel for the petitioner further submits that following the retirement of her husband, he unfortunately passed away on 02.04.2019. Consequently, the petitioner filed an application in the prescribed form before the concerned authority on 24.12.2019 for the grant of family pension. This application, along with the required undertaking was filed on the same date (Annexure-P1). After examining the petitioner's documents, the department granted the family pension, and she began receiving these payments on monthly basis. The petitioner continued to receive her admissible family pension continuously for approximately four years after the death of her husband, without any interruption or dispute from the respondent authorities.

50. It is further submitted by the learned counsel that, all of a sudden, a cryptic and arbitrary order was issued under the signature of the In-Charge Medical Officer, Primary



Health Centre, Kanti, Muzaffarpur, vide Memo No. 415 dated 15.07.2023 (Annexure-P2), by which the family pension of the petitioner was ceased. This impugned order was issued in compliance with a series of administrative communications, including Memo No. 2468 dated 15.07.2023 issued by the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur; Letter No. 1008 (4) dated 11.07.2023 by the Director-in-Chief (Disease Control Public Health Para Medical), Health Services, Bihar, Patna; and Memo No. 259 dated 13.07.2023 issued by the Regional Additional Director, Health Services, Tirhut Division, Muzaffarpur. Furthermore, the impugned was passed by erroneously relying on Supreme Court judgments in the cases of *Devendra Sharma* and *Kriti Narayan Prasad* to which the deceased was not a party. It is submitted that this action completely ignores the joint review reports dated 30.06.2023 and 04.07.2023 (Annexure-P/1 of rejoinder) which categorically reaffirmed the legality of the husband's appointment on a sanctioned post. The Learned Counsel contends that such termination of a sanctioned family pension is a clear violation of Rule 43(b) of the Bihar Pension Rules, 1950, as well as the principles of natural justice and constitutional safeguards under Articles 14, 21, and 300A of the Constitution of India,



especially since no departmental or judicial proceeding was ever initiated against the employee during his lifetime or even against the petitioner.

51. The Learned Counsel for the petitioner contends that the termination of the family pension after four years is based on the claim that the husband's service was irregular, illegal, or forged, which is not justified in the eyes of the law given his 30 years of regular service. Prior to issuing the cryptic order contained in Annexure-P2, the authority concerned neither issued any show-cause notice to the petitioner nor afforded her any opportunity of being heard. This action is a clear violation of the principles of natural justice and is contrary to the provisions laid down in the Bihar Pension Rules, 1950. The Counsel emphasizes that it is malafide in law and represents an arbitrary exercise of power to cease a sanctioned pension after such a significant duration without any formal inquiry or notice.

**SUBMISSIONS ON BEHALF OF THE
RESPONDENTS**

52. The Learned Counsel for the respondents submits that the impugned order dated 15.07.2023, as contained



in Memo No. 415, was issued in strict compliance with the directions of the Director-in-Chief, Health Services, Bihar, vide Memo No. 1008(4) dated 11.07.2023. It is contended that the husband of the petitioner was among several employees, whose initial appointments were found to be irregular, illegal, or based on forged documents following a high-level scrutiny of the state's recruitment records. The respondent authorities maintain that since the very foundation of the service was based on an illegal appointment, the subsequent grant of pension and family pension does not confer a permanent right upon the petitioner to continue receiving benefits from the state exchequer. The action taken was a necessary administrative correction intended to rectify past recruitment lapses and was conducted in accordance with the broader policy decisions of the Health Department.

53. It is further submitted that the reliance placed by the department on the judgments of the Hon'ble Supreme Court in the cases of *Devendra Sharma* and *Kriti Narayan Prasadis* legally sound, as these precedents establish that illegal or forged appointments do not entitle an individual to terminal benefits. The Learned Counsel contends that the writ petition is devoid of merit because the cessation of the family pension was not an isolated act of malice but a consequence of a



departmental review that identified the deceased husband's appointment as invalid. Consequently, the respondents pray that the Hon'ble Court may be pleased to dismiss the writ application, as the petitioner has no legal or fundamental right to claim a pension arising from a service that was void ab initio.

REJOINDER SUBMISSIONS ON BEHALF OF THE PETITIONER

54. In response to the counter affidavit, the learned Counsel for the petitioner submits that the respondents have failed to provide any evidence of a show-cause notice or a formal inquiry before stopping the family pension, which had been paid uninterruptedly for four years following the death of the employee. It is submitted that the husband of the petitioner served for over 30 years and retired on 30.11.2018 with a clean record, and his service had already been scrutinized and validated by the Civil Surgeon, Muzaffarpur, in 2008 (Annexure-P/5) following the orders of this Hon'ble Court in L.P.A. No. 946 of 2003. The petitioner contends that the respondents cannot now, after the death of the employee, unilaterally label the appointment as "forged" based on a "Five-Men Committee" report that was never shared with the petitioner and does not even name the deceased husband as a



party to any fraud.

55. The Learned Counsel further highlights that the respondents have misleadingly relied upon internal memos and Supreme Court judgments that are factually distinguishable from the present case. Under Rule 43(b) of the Bihar Pension Rules, 1950, pension once sanctioned cannot be withdrawn without departmental proceeding or judicial proceeding finding the employee guilty of grave misconduct during his service. Since the petitioner's husband retired without any such finding and no proceeding was initiated within the statutory limitation period, the sudden cessation of the family pension via Memo No. 415 is an arbitrary exercise of power. The petitioner asserts that the joint review reports dated 30.06.2023 and 04.07.2023 specifically affirmed the legality of her husband's appointment, making the impugned order is a violation of principle of natural justice.

CWJC No. 16761 of 2023

56. The writ petition has been filed for the following relief(s):-

“That the present writ application is for issuance of a writ in the



nature of writ of certiorari for quashing part of the order with respect to the petitioner issued vide memo no. 1485 dated 05.10.2023 under the signature of the Civil Surgeon cum Chief Medical Officer, Jamui as contained in Annexure- P13 whereby and whereunder pension of the petitioner has been stopped by referring some orders in which the petitioner was not a party. and further also for quashing the consequential letter issued vide memo no. 255 dated 05.10.2023 issued under the signature of the Incharge Medical Officer, Primary Health Centre, Sikandra, Jamui as contained in Annexure-P14 whereby and whereunder the Accountant Genereal, Bihar, Patna was asked to stop the pension of the petitioner. And further a writ in the nature of writ of mandamus directing the concerned respondent authorities to ensure payment of month to month admissible pension to the petitioner which he was getting continuously And/or pass such other order/orders as this Hon'ble Court may think fit and proper.”

Written arguments/oral submissions of the petitioner in CWJC No. 16761 of 2023

57. Learned Counsel for the petitioner submits that



the petitioner was admitted for the training of Basic Health Worker in the Sadar Hospital, Saharsa, and after successful completion of said training from 25.09.1973 to 30.06.1974, a certificate was issued in his favour under the joint signatures of the Civil Surgeon cum Chief Medical Officer, Saharsa, and the Deputy Director, Health Services (Health), Bihar, Patna. Following an advertisement published in the daily newspaper "Aryavart" inviting applications from trained yet unemployed Basic Health Workers, the petitioner applied with all necessary documents. On the basis of Health Directorate Letter No. 2106(22) dated 14.11.1986 and Letter No. 9(22) dated 05.01.1987, an appointment order was issued vide Memo No. 1426 dated 16.07.1987 by the Civil Surgeon cum Chief Medical Officer, Dumka (Annexure-P1), whereby the petitioner joined the post on 01.10.1987 at the Primary Health Centre, Nala, Dumka. He was subsequently transferred by the Regional Deputy Director, Health Services, Bhagalpur Division, via Memo No. 207 dated 23.02.1989, and joined the office of the Civil Surgeon, Munger, on 07.04.1989. Thereafter, via Memo No. 1361 dated 19.04.1989, he was posted to the Primary Health Centre, Sikandra, Munger (now Jamui), where he joined on 21.04.1989.



58. It is further submitted by the Learned Counsel that after approximately 16 years of service, the petitioner's services were terminated w.e.f. 01.03.2003 via a cyclostyle letter, Memo No. 316 dated 25.02.2003, issued by the Civil Surgeon cum Chief Medical Officer, Jamui (Annexure-P2), without following the procedure under Article 311(2) of the Constitution. This termination was challenged in CWJC No. 7365 of 2003, and by a common judgment dated 26.06.2006 passed in LPA No. 946 of 2003 and analogous cases, the court directed the Health Department to reconsider the cases in light of the *Secretary, State of Karnataka Versus Uma Devi* judgment. Subsequently, an enquiry report by a five-man committee declared the petitioner's appointment forged on the ground that his "Certificate of BHW found forged". This report was prepared behind the petitioner's back without any opportunity for hearing or show cause, despite the fact that the petitioner fulfilled all five criteria for scrutiny, including appointment by a competent authority on a sanctioned vacant post with requisite qualifications.

59. Learned Counsel for the petitioner further submits that the five-man enquiry committee, after a delay of approximately two years, issued a report erroneously labelling



the petitioner's appointment as "forged" on the unfounded ground that his Basic Health Worker (BHW) certificate was fraudulent. It is contended that this enquiry was conducted in deliberate violation of the principles of natural justice, equity, and fair play, as the report was prepared behind the petitioner's back without the issuance of a show-cause notice or any opportunity for a hearing. The committee appears to have acted in clear violation of principal of natural justice, equity and fair play, overlooking the undeniable fact that the petitioner fulfilled all five established criteria for scrutiny, including appointment by a competent authority to a sanctioned vacant post and possessing all requisite qualifications, backed by sixteen years of unblemished service. Furthermore, the petitioner alleges that the committee adopted a corrupt "pick and choose" methodology rooted in illegal considerations; specifically, while the petitioner's appointment through a valid selection process was termed "forged," the committee categorized the appointment of one Pradip Kumar Karn who was absorbed from a voluntary worker to a clerical post via Memo No. 2787 dated 27.09.1989 as merely "irregular," leading to his reinstatement (Annexure-P/3). It is further contended that as per the settled law in *2008(1) PLJR 841* and *2009(2) PLJR 869*, the services of



a permanent employee can only be terminated or interfered with by following the strict procedures mandated under Article 311(2) of the Constitution of India.

60. The Learned Counsel further submits that the enquiry committee adopted a "pick and choose" method due to illegal consideration. For instance, Krishna Murari Singh, whose appointment was held irregular, was reinstated via Memo No. 1117(4) dated 20.09.2007. Similarly, Sri Siddhnath Thakur, Sri Rupak Bhaumik, Sri Balram Jha etc., was reinstated via the same memo despite a finding in the enquiry report that their appointment was found illegal but despite that they were reinstated in services. Further, Binod Narayan was reinstated despite being appointed by an in-charge Civil Surgeon, as evidenced by letters dated 15.11.2005 and 30.10.2007 (Annexures-P5 and P6).

61. It is next submitted by the learned counsel that the petitioner filed CWJC No. 16907 of 2009. By order dated 19.10.2011, this Hon'ble Court quashed the enquiry report and directed the respondents to reinstate the petitioner with all consequential benefits (Annexure-P10). The petitioner was reinstated via Memo No. 1929 dated 20.10.2012 by the Civil



Surgeon, Jamui (Annexure-P11). The State's appeal, LPA No. 1105 of 2013, was dismissed on 15.04.2014 (analogous to LPA No. 568 of 2013), with liberty to the State to proceed afresh in accordance with law (Annexure-P12). No such proceeding was ever initiated, and the petitioner finally superannuated from service w.e.f. 31.01.2018 after attaining 60 years of age. Following superannuation, all post-retiral benefits including pension, gratuity, leave encashment, GPF, and Group Insurance were fixed and paid regularly to him.

62. Lastly, it is submitted by the learned counsel that the petitioner's monthly pension was abruptly stopped via Memo No. 1485 05.10.2023 issued by the Civil Surgeon cum Chief Medical Officer, Jamui (Annexure-P13). This was followed by a consequential letter, Memo No. 255 dated 05.10.2023, by the In-charge Medical Officer, PHC Sikandra, asking the Accountant General, Bihar, to stop the payments (Annexure-P14). These orders were passed in reference to Supreme Court orders in Civil Appeal No. 7879 of 2019 and 8649 of 2018, cases in which the petitioner was not even a party. This action is not only malafide and arbitrary but also contemptuous, as the earlier liberty to proceed against the petitioner was never utilized. Furthermore, several other persons



involved in those same Supreme Court appeals, such as Surendra Prasad, Parmeshwar Yadav, and Khurshid Alam, continue to receive their pension and benefits. The impugned orders were passed without any show cause notice or opportunity for hearing, in clear violation of the principles of natural justice and Article 14 of the Constitution of India.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 3

63. Learned Counsel for Respondent No. 3 submits that the instant writ petition is not maintainable as the actions taken by the respondent authorities are in strict compliance with the directions of the State Government and the Hon'ble Courts orders. In light of order passed in LPA No. 946 of 2003 (State of Bihar and others v. Purendra Sulan kit and others), direction was issued to stop pension of those employees, whose appointment was found forged by five members committee vide file no. 40 of 2023 further issued Letter No. 1008(4) dated 11.07.2023 (Annexure-R/B) in light of the judgment passed by the Hon'ble Supreme Court in Civil Appeal No. 7879 of 2019 (*State of Bihar & Ors. Vs. Devendra Sharma*) order dated 17.10.2019 and Civil Appeal No. 8649 of 2018 order dated 30.11.2018 and letter no. 1165 (4) Patna dated 04.08.2023. The Hon'ble Apex Court categorically held that



appointments made without following due process, or those found to be illegal/forged, do not confer any right upon the employee to claim salary or post-retiral benefits. Following this, the Special Working Officer of the Health Department issued a reminder vide File No. 12/P court-01-41/2017-1446(12) dated 25.09.2023 (Annexure-R/D).

64. It is further submitted that a Five-Member Enquiry Committee, constituted as per earlier judicial directions, had scrutinized the petitioner's service records and submitted its report on 26.06.2006 (Annexure-R/A). The committee concluded that the petitioner's appointment was illegal and his Basic Health Worker (BHW) certificate was forged. Consequently, in view of the mandates of the Departmental Letter No. 1165(4) dated 04.08.2023 and the aforementioned Supreme Court judgments, the Civil Surgeon-cum-Chief Medical Officer, Jamui, issued Memo No. 1485/Jamui dated 05.10.2023 (Annexure-R/E) to stop the petitioner's pension levelling charge on forged appointment. This was followed by a consequential order via Memo No. 255 dated 05.10.2023 (Annexure-P/14) by the Incharge Medical Officer, PHC Sikandra, Jamui, requesting the Accountant



General to cease all payments.

(REJOINDER ON BEHALF OF THE PETITIONER)

65. It is submitted by the learned counsel on behalf of the petitioner that the counter affidavit filed by Respondent No. 3 reflects a complete lack of application of mind and contains irrelevant facts designed to mislead this Hon'ble Court and deny the petitioner's rightful claims. The petitioner asserts that the reliance placed by the State on the Supreme Court judgments in Civil Appeal No. 7879 of 2019 and Civil Appeal No. 8649 of 2018 is entirely misplaced, as the petitioner was never a party to those proceedings. Furthermore, these judgments were passed *in personam* not *in rem*, making them inapplicable to the petitioner's specific circumstances. It is a matter of record that the State's own appeal against the petitioner, bearing LPA No. 1105 of 2013, was dismissed by this Hon'ble Court as far back as 15.04.2014. While the court at that time granted liberty to the authorities to initiate fresh proceedings in accordance with the law, but no such action or inquiry was ever undertaken. Consequently, the impugned order dated 05.10.2023, which seeks to penalize the petitioner under the guise of Supreme Court precedents without providing a



show-cause notice or an opportunity for a hearing, is a gross violation of the principles of natural justice.

66. Furthermore, the learned counsel submits that the authorities are following a repetitive and illegal *modus operandi*, as evidenced by the case of Sri Uday Shankar Prasad, a similarly situated employee whose termination was quashed by this Hon'ble Court in CWJC No. 8393 of 2009. Although the State initially resisted granting him benefits, they were eventually compelled to reinstate him and pay all consequential arrears, including ACP/MACP and salary revisions, following strict directives in contempt proceedings under MJC No. 3948 of 2013. The petitioner highlights that in that instance, the Court had to threaten a cost of Rs. 25,000/- against the Officiating Secretary of the Health Department to ensure compliance with its orders. The petitioner has annexed the relevant orders from November and December 2022 (Annexures P/15, P/16, and P/17) to demonstrate that the State has previously acknowledged the rights of employees in identical situations once faced with judicial scrutiny. The current action against the petitioner is, therefore, inconsistent with the State's established legal obligations and past compliance in nearly identical matters.

67. Lastly, it is contended by the learned counsel



that the impugned action of stopping the petitioner's pension is characterized by extreme arbitrariness and a "pick and choose" policy. The petitioner has provided an extensive list of individuals across various districts including Madhubani, Muzaffarpur, Arwal, Jehanabad, and Bhagalpur whose appointments were similarly flagged by the Five-Man Enquiry Committee but who continued to either remain in service or receive their monthly pensions regularly. Specific names such as Sri Ganesh Prasad, Sri Devendra Lal Karn, Sri Sahdeo Prasad Yadav, and several others have been cited to illustrate this discriminatory treatment. It is submitted that targeting a retired employee of 65 years of age after his superannuation, without any formal departmental proceeding or inquiry, is a *mala fide* exercise of administrative power.

SUBMISSION ON BEHALF OF RESPONDENT NO. 6/the
Accountant General, Bihar, Patna.

68. The counter affidavit submitted by the Accountant General of Bihar (Respondent No. 6) clarifies that the petitioner, Arvind Kumar, is a retired Basic Health Worker from the Primary Health Centre in Sikandra, Jamui, holding P.P.O. No. 201811041440. The respondent acknowledges that the petitioner is seeking to quash Memo No. 1485 and Letter



No. 255, both dated October 5, 2023, which were issued by medical authorities to stop his pension. Following the receipt of these specific instructions from the In-charge Medical Officer at Sikandra, the Accountant General's office issued Letter No. 1616 on November 2, 2023, to the Treasury Officer in Nalanda, formally directing that the petitioner's pension payments be stopped. This communication from the Accountant General's office, which implemented the stoppage, is annexed to their filing as Annexure-A.

SUBMISSION ON BEHALF OF RESPONDENT NO. 2/the Director in Chief (Disease Control Public Health and Para Medical Health Service, Bihar, Patna.

69. Respondent No. 2, representing the Health Department of the State of Bihar through the Additional Director of Health Services, asserts that the petitioner's appointment as a Basic Health Worker was fundamentally flawed and falls under the category of illegal and forged recruitment. It is contended that the appointment was made by regional authorities in an arbitrary manner, completely ignoring the constitutional mandates and statutory procedures required for public employment. Learned counsel contends that once the massive scale of forged appointments in the Health Department came to light, a systematic review was initiated, leading to the



petitioner's original termination by the Civil Surgeon-cum-Chief Medical Officer, Jamui, as early as February 25, 2003, via Letter No. 316. Learned Counsel for Respondent No. 2 maintains that because the very foundation of the petitioner's entry into service was fraudulent, no legal right to the post or subsequent retiral benefits ever vested in the petitioner.

70. The learned counsel for the respondent further provides a detailed history of the litigation surrounding these appointments, noting that several writ petitions were initially filed against such terminations and were allowed by Single Judge benches. However, the State of Bihar challenged these orders through various Letters Patent Appeals (LPAs), including the landmark LPA No. 946 of 2003 (*Purendra Solankit vs. The State of Bihar*), which resulted in a directive on June 26, 2006, to constitute a Five-men Committee. This Committee was tasked with scrutinizing the validity of appointments in light of the principles established by the Hon'ble Supreme Court in the *Secretary, State of Karnataka vs. Uma Devi* case. The learned counsel also submits that a writ petition CWJC No. 7365 of 2003 was also filed by the petitioner against his termination which was also disposed of along with LPA No. 946 of 2003. The State emphasizes that the petitioner's case was



specifically referred to this Committee, which categorized the vast majority of such recruits as illegal or forged, with only a small fraction (91 employees) being found irregular and thus eligible for regularization.

71. Further the learned counsel points out that the petitioner's own appointment was subjected to this rigorous scrutiny and was unequivocally identified as a "forged appointment," standing at Serial No. 176 of the formal Committee Report. The State argues that subsequent judicial developments further solidified their stand, citing batch cases such as CWJC No. 6575 of 2009 (*Om Prakash vs. State of Bihar*), where initial orders in favor of the employees were set aside by the Division Bench in various LPAs, including LPA No. 200 of 2010 and LPA No. 566 of 2010, on September 24, 2014. Although the petitioner cites the dismissal of the State's LPA No. 1105 of 2013 on April 15, 2014, the respondent suggests that such dismissals do not override the substantive findings of the State Committee or the broader mandates of the Hon'ble Supreme Court regarding the dismissal of writ petitions involving forged appointments.

72. Lastly, it is submitted by the Learned Counsel that the State justified in the issuance of Memo No. 1485 and



Letter No. 255 dated October 5, 2023, which directed the stoppage of the petitioner's pensionary benefits. The respondent argues that these actions are not arbitrary but are a necessary implementation of judicial findings that categorized the petitioner's service as void *ab initio* due to the forged nature of the initial appointment. Respondent No. 2 asserts that the Accountant General, Bihar, was correctly advised to stop payments because the petitioner does not meet the legal threshold of a "government servant" entitled to public funds after superannuation. The learned counsel maintains that the current writ petition is devoid of merit, as the petitioner seeks to protect benefits derived from a fraudulent entry into the state cadre, which cannot be sustained under the Bihar Pension Rules or the principles of administrative fairness.

CWJC No. 17963 of 2023

73. The present writ petition seeks the following relief(s):-

“For issuance of a writ in the nature of writ of certiorari for quashing part of the order with respect to Late Husband of the petitioner issued vide memo no. 2468 dated 15.07.2023 under the signature of the Civil Surgeon cum Chief



Medical Officer, Muzaffarpur as contained in Annexure-P13 whereby and whereunder the concerned Drawing and Disbursing Officers have been directed to ensure stoppage of pension of those employees who have been retired/died. And further also for quashing the consequential letter issued vide memo no. 332 dated 15.07.2023 under the signature of the Incharge Medical Officer, Community Health Centre, Sahebganj, Muzaffarpur as contained in Annexure-P14 whereby and whereunder the Accountant Genereal, Bihar, Patna has been asked to stop pension of husband of the petitioner And further a writ in the nature of writ of mandamus directing the concerned respondent authorities to ensure payment of month to month admissible family pension to the petitioner which she was getting continuously since after death of her husband Late Harishchandra Prasad. And/or pass such other order/orders as this Hon'ble Court may think fit and proper.”

Written arguments/oral submissions of the petitioner in CWJC No. 17963 of 2023.

74. The Learned Counsel for the petitioner submits that the late husband of the petitioner, Harishchandra Prasad, was appointed to the post of Health Worker (Class-III)



on 27.12.1988, vide Memo No. 3252 (Annexure P/1). This appointment was made by the then Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur. The husband of the petitioner thereafter joined the office of the Primary Health Centre, Sahebganj, Muzaffarpur, on 28.12.1988. After serving for several years with full dedication and honesty, he was abruptly terminated from service along with 15 others vide Memo No. 88 dated 11.01.2003 (Annexure P/2), w.e.f. issuance of letter, after holding their appointment as illegal/forged, without any inquiry proceeding in accordance with Article 311 (2) and without providing a proper opportunity to be heard, which was a clear violation of the principles of natural justice.

75. It is further submitted by the Learned Counsel for the petitioner that aggrieved by the said termination, the husband of the petitioner filed a writ petition bearing C.W.J.C. No. 3332 of 2003. This Hon'ble Court was pleased to pass an interim order on 15.04.2003 staying the operation of the termination order, and subsequently, vide a common order dated 08.09.2003 passed in C.W.J.C. No. 4702 of 2003 and other analogous cases reported in 2003 (4) PLJR 282, the termination order was set aside with a direction for reinstatement. Despite the judicial intervention, the respondent State preferred an



appeal before the Division Bench bearing L.P.A. No. 205 of 2004 against the order passed in the husband's case. The said appeal, along with L.P.A. No. 946 of 2003 and other analogous matters reported in 2006 (3) PLJR 386, was disposed of on 26.06.2006 with a direction to the authorities to reconsider the cases of all affected employees in terms of paragraph 44 of the judgment passed by the Hon'ble Supreme Court in the case of *Secretary, State of Karnataka vs. Uma Devi*.

76. Learned counsel further contends that following the remand for reconsideration, an enquiry was conducted; however, in the subsequent enquiry report it was held that the appointment of the husband of the petitioner is illegal were again challenged before this Hon'ble Court in CWJC No. 3819 of 2008. On 06.10.2009, this Hon'ble Court was pleased to quash the impugned enquiry report as well as the termination order. Consequently, the husband of the petitioner was reinstated in service vide Memo No. 2991 dated 21.10.2009 (Annexure P/10). The State again challenged this decision through L.P.A. No. 1727 of 2010, but the same was dismissed by the Hon'ble Division Bench on 27.07.2011 (Annexure P/11), thereby attaining finality regarding the legality of his service and appointment.



77. It is next submitted by the learned counsel that the husband of the petitioner continued his service without further hindrance and eventually superannuated on 30.06.2020 after completing his full tenure. Following his retirement, he received his pensionary benefits until his demise on 21.03.2023. Notably, even after his death, the respondent authorities themselves issued a letter vide Memo No. 2250 dated 30.06.2023 (Annexure P/12), wherein the appointment of the husband of the petitioner was explicitly held to be legal and valid. This acknowledgement by the State further solidifies the petitioner's claim that her husband's service was regularized and recognized after multiple rounds of scrutiny by both the departmental authorities and the Hon'ble High Court.

78. Lastly, Learned Counsel for the petitioner firmly submits that the actions of the respondent authorities are blatant violation of settled law, the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, issued Memo No. 2468 on 15.07.2023 (Annexure P/13), directing the stoppage of pension for several retired or deceased employees, including the husband of the petitioner. Consequent to this, the Incharge Medical Officer of the Community Health Centre, Sahebganj, issued Memo No. 332 dated 15.07.2023 (Annexure P/14)



requesting the Accountant General, Bihar, to stop the pension payments. This arbitrary action was taken without any notice or opportunity of hearing to the petitioner, who has been receiving her family pension continuously since her husband's death. Such a sudden stoppage of pension, particularly after a prior official declaration of the appointment's validity, is most malafide and arbitrary but the same is also contemptuous in nature thus in clear violation of Article 14 of the Constitution of India.

**COUNTER AFFIDAVIT ON BEHALF OF THE
RESPONDENT NOS. 4/Civil Surgeon-cum-Chief Medical
Officer, Muzaffarpur AND 5/the Treasury Officer, Muzaffarpur.**

79. The Learned Counsel for the respondents submits that the husband of the petitioner, Late Harishchandra Prasad, was purportedly appointed to the post of Basic Health Worker vide Memo No. 3252 dated 28.12.1988 under the signature of the then Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur. He further submits that upon a subsequent inspection of the records, the service of the petitioner's husband was found to be based on illegal and forged documents. Consequently, the respondent authorities issued a termination order vide Memo No. 88 dated 11.01.2003. Although this initial termination was challenged in C.W.J.C. No. 3332 of 2003 and



set aside on 08.09.2003 solely on the technical grounds of a violation of the principles of natural justice, the Court at that time had specifically noted that the appointment was held to be *void ab-initio*.

80. He further submits that the State, feeling aggrieved, preferred an appeal bearing L.P.A. No. 946 of 2003, which was heard with other analogous cases and disposed of with a direction to the State to reconsider the cases of the affected employees. In compliance with this judicial direction, the State Government constituted a five-member committee to individualize and classify the employees into three distinct categories: those whose employment was secured on false and forged documents, illegal appointments, and irregular appointments. The husband of the petitioner was specifically placed in the category of employment secured through false, forged, and fabricated documents after a detailed enquiry report was submitted on 31.12.2008.

81. Learned counsel for the respondents contends that while approximately 91 cases classified as "irregular" were eventually regularized in view of the directions in the *Uma Devi* case, the appointment of the petitioner's husband remained categorized as "illegal" and "*void ab-initio*". The subsequent



rounds of litigation, including C.W.J.C. No. 3819 of 2008 and C.W.J.C. No. 6575 of 2009, eventually led to the matter reaching the Hon'ble Apex Court. The Hon'ble Apex Court, in the cases of *State of Bihar & Ors. Vs. Kirti Narayan Prasad* (Civil Appeal No. 8649 of 2018) and *State of Bihar & Ors. Vs. Devendra Sharma* (Civil Appeal No. 7879 of 2019), allowed the appeals filed by the State, thereby affirming the State's position regarding the illegality of such appointments.

82. Counsel for the respondents further submits that the legal position regarding the petitioner's husband's appointment has attained finality in light of the aforementioned judgments of the Hon'ble Supreme Court. The Hon'ble Apex Court clearly held that appointments which are *void ab-initio* do not confer any right to the post or subsequent terminal benefits. In strict adherence to these binding precedents, the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, issued the impugned order vide Memo No. 2468 dated 15.07.2023, directing the stoppage of pension for those employees whose appointments were found to be illegal and void.

83. Learned counsel further submits that the petitioner has distorted the factual matrix and suppressed the material findings of the committee and the Hon'ble Apex Court



to rush to this Hon'ble Court. The respondents contends that since the original appointment was illegal and secured through forged documents, no right to a family pension survives, as the very foundation of the service was non-existent in the eyes of the law. Therefore, the actions taken by the respondent authorities via Memo No. 2468 and Memo No. 332 are fully justified, legally sound, and in complete harmony with the directions of the Hon'ble Apex Court. The present writ application, being devoid of merit, is fit to be rejected at the stage of admission itself.

REJOINDER TO THE COUNTER AFFIDAVIT
ON BEHALF OF THE RESPONDENT NOS. 4 AND 5

84. Learned counsel for the petitioner submits in the rejoinder that the respondents' reliance on the judgments of the Hon'ble Supreme Court in Civil Appeal No. 7879 of 2019 (*State of Bihar vs. Devendra Sharma*) and Civil Appeal No. 8649 of 2018 (*State of Bihar vs. Kirti Narayan Prasad*) is entirely misplaced and misleading. The learned counsel contends that these judgments were passed *in personam* and not *in rem*, and since neither the petitioner nor her late husband was a party to those specific proceedings before the Hon'ble Supreme Court, the findings therein cannot be applied to strip



the petitioner of her vested rights to family pension. The impugned order dated 15.07.2023, issued under the garb of these Supreme Court judgments without any fresh enquiry or notice to the petitioner, is therefore illegal, arbitrary, and *void ab initio*, particularly because the husband's own writ petition had already been allowed and affirmed by the Division Bench years prior.

85. The learned counsel further submits that the action of the respondent authorities in stopping the pension is in gross violation of the principles of natural justice, equity, and fair play. It is submitted that before holding the husband's appointment illegal in the recent Enquiry Report, issued vide letter no. 2328 dated 04.07.2023 just before the impugned stoppage, no notice was ever served upon the petitioner or her husband, nor were they given any opportunity of being heard. This report was prepared behind their back, which is contrary to the settled law laid down by the Hon'ble Supreme Court in *Shridhar vs. Nagar Palika, Jaunpur* (1990) and *Basudeo Tiwari vs. Sido Kanlu University* (1998), which mandate that no person should be condemned without a hearing, as the order of appointment had conferred a vested right over decades of service.



86. Learned counsel further highlights that the respondent authorities are adopting a discriminatory 'pick and choose' policy, as evidenced by the case of one Uday Shankar Prasad (Darban), whose termination was quashed in the same common order dated 06.10.2009. Despite initial resistance, the authorities were compelled to reinstate him and pay all consequential benefits, including ACP/MACP and back wages, following orders passed in MJC No. 3948 of 2013 on 30.11.2022 (Annexure-15) and subsequent payments on 14.12.2022 vide Memo No. 7689 (Annexure-16). Furthermore, this Hon'ble Court in MJC No. 4797 of 2018, vide order dated 11.01.2024 (Annexure-17), has observed that the common order of 06.10.2009 remains binding and final as it was never challenged or annulled by any higher court in those specific instances.

87. Lastly, the learned counsel submits that the husband of the petitioner fully satisfied all five criteria incorporated by the Five Members Enquiry Committee for scrutinizing the cases of affected employees in light of the order dated 26.06.2006. It is emphasized that the respondent authorities themselves acknowledged the legality of his appointment as recently as 30.06.2023 vide Memo No. 2250,



just weeks before the sudden stoppage of pension. The subsequent stoppage vide Memo No. 2468 dated 15.07.2023 is therefore a malafide exercise of power that ignores the finality of previous judicial orders and the husband's decades of dedicated service. Consequently, the petitioner is entitled to the immediate restoration of her family pension with all consequential arrears.

COUNTER AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO. 2/the Director-Chief (Disease Control
Public Healthy and Para Medical) Health Service, Bihar, Patna.

88. The learned counsel for the respondent submits that the present writ application, filed for the quashing of Memo No. 2468 dated 15.07.2023 issued by the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, and the consequential Memo No. 332 dated 15.07.2023 issued by the Incharge Medical Officer, Community Health Centre, Sahebganj, is devoid of merit. These orders directed the stoppage of the family pension of the petitioner's late husband, Harishchandra Prasad, on the grounds that his original appointment was illegal/forged appointment.

89. Learned counsel further submits that the appointment of the petitioner's husband as a Health Worker was



part of a series of illegal and forged appointments made by regional authorities in the Health Department without jurisdiction and in total disregard of constitutional mandates. Upon discovery of these illegalities, several employees were terminated, including the husband of the petitioner.

90. The Learned Counsel for the respondents submits that the litigation history regarding these appointments is extensive and has reached absolute finality through a series of authoritative judicial pronouncements. Initially, the matter was considered in L.P.A. No. 946 of 2003 (Purnendra Sulankit vs. The State of Bihar), which was decided on 26.06.2006. In the said judgment, the Hon'ble Division Bench directed the State Government to constitute a Five-member Committee to rigorously scrutinize the validity of all such appointments in light of the principles laid down by the Hon'ble Supreme Court in the landmark case of *Secretary, State of Karnataka vs. Uma Devi*. This judicial mandate was intended to separate valid appointments from those that were inherently illegal or fraudulent.

91. In strict compliance with the directions of this Hon'ble Court, a five-member Committee was duly constituted, which meticulously scrutinized the appointments and classified



them into distinct categories of 'illegal', 'forged', or 'irregular'. It is further submitted that the appointment of the petitioner's husband was specifically examined by the said committee and was unequivocally found to be an "illegal appointment." His case was recorded at Sl. No. 44 of the committee's comprehensive report, which has been brought on record as Annexure-R/1. This finding established that the very inception of his service was fundamentally flawed and lacked the sanction of law.

92. Following the committee's findings, a batch of writ petitions was filed in 2009 by various affected individuals to challenge the enquiry report. Among these were CWJC No. 6575 of 2009 (Om Prakash vs. The State of Bihar) and the petition filed by the husband of the petitioner, bearing CWJC No. 3819 of 2008. While these petitions were initially allowed on 06.10.2009, and the impugned enquiry reports were set aside at that stage, the respondents contend that these orders did not grant permanent immunity to the appointments, as they were subject to further appellate scrutiny by the Division Bench and the Hon'ble Apex Court.

93. The litigation subsequently moved into the stage of Letters Patent Appeals (LPAs), where the legal position



underwent further clarification. While LPA No. 1727 of 2010 (State vs. Harishchandra Prasad) was initially dismissed on 27.07.2011, other similar and analogous appeals, such as LPA No. 566 of 2010 (State vs. Madhu Kumari) and LPA No. 200 of 2010 (State vs. Om Prakash), were heard and allowed by the Hon'ble Division Bench on 24.09.2014. These subsequent judgments effectively set aside the earlier orders of the Single Judge and reaffirmed the State's authority to act against appointments that were found to be illegal upon detailed committee scrutiny.

94. Finally, the learned counsel submits that the entire controversy was put to rest by the Hon'ble Apex Court, which attained finality in the matter. In Civil Appeal No. 8649 of 2018 (State of Bihar vs. Kirti Narayan Prasad), decided on 30.11.2018 (Annexure-R/2), the Hon'ble Supreme Court allowed the State's appeals and dismissed the writ petitions, categorically holding that appointments which are *void ab initio* do not confer any legal rights upon the incumbents. This definitive legal position was further affirmed and reinforced in Civil Appeal No. 7879 of 2019 (State of Bihar vs. Devendra Sharma) on 17.10.2019 (Annexure-R/3). Consequently, the respondents maintain that the stoppage of pension is a necessary



legal consequence of these binding judicial precedents.

95. Learned counsel for respondent further contends that since the husband of the petitioner was never a validly appointed civil servant, no disciplinary proceedings were required for the termination of his services or the subsequent stoppage of pension benefits, as the appointment itself was non-existent in the eyes of the law.

96. The impugned orders of 2023 were issued to implement the finality of the legal position established by the Hon'ble Supreme Court. This is supported by further administrative correspondence, including Letter No. 1008(4) dated 11.07.2023, Corrigendum No. 1165(4) dated 04.08.2023, and Letter No. 1311(4) dated 30.08.2023 (Annexure-R/4 series). Additionally, similar recent judgments of this Hon'ble Court dated 25.03.2025 (Annexure-R/5) and 19.08.2025 (Annexure-R/6) have upheld the State's action in such matters. Consequently, learned counsel for the respondents submits that the writ petition be dismissed as the petitioner has no legal right to claim a family pension based on an illegal and void appointment.

CWJC NO. 18408 of 2023



97. The relief(s) sought for is as follows:-

“For issuance of a writ in the nature of writ certiorari for quashing the part of the letter with respect to the petitioner issued vide memo no. 2998 dated 27.09.2023 under the signature of the Civil Surgeon cum Chief Medical Officer, Madhubani as contained in Annexure- P14 by which the pension of the petitioner has been stopped with effect from issuance of the letter, without any notice to show cause to him rather only by referring some orders of the Hon'ble Supreme Court in which he was not a party. And further a writ in the nature of writ of mandamus directing the respondent authorities to pay the pension to the petitioner which is being paid to him regularly till now since after his superannuation from service. And/or pass such other order/orders as this Hon'ble Court may think fit and proper.”

Written arguments/oral submissions of the petitioner in CWJC No. 18408 of 2023.

98. The Learned Counsel for the petitioner submits that the petitioner was appointed to the post of Basic Health Worker along with others vide letter issued under Memo No.



216 dated 26.12.1985 (Annexure P/1) in the pay scale of 535-765 and was initially posted at the Primary Health Centre, Singhwara, Darbhanga. It is submitted that although the appointment letter described him as a voluntary worker, he was in fact appointed afresh to the post. Subsequently, the petitioner was transferred and placed at the disposal of the Civil Surgeon-cum-Chief Medical Officer, Madhubani, by an order issued via Memo No. 1003 dated 02.12.1987 under the signature of the Regional Deputy Director, Health Services, Darbhanga Division, and was later posted against a vacant post in the Primary Health Centre, Laukahi, Madhubani, via Memo No. 243 dated 15.12.1987. However, on 10.07.1995, the services of 138 persons, including the petitioner, were terminated by the Civil Surgeon-cum-CMO, Madhubani, without any enquiry, citing an order dated 22.09.1994 passed in CWJC No. 10464 of 1993, to which the petitioner was not a party. This termination was subsequently stayed by Letter No. 124 dated 12.08.1996 of the Regional Deputy Director, leading to the petitioner's return to service via Memo No. 2440 dated 10.10.1996.

99. The Learned Counsel further submits that a show cause notice was later issued via Memo No. 1093 dated 27.05.2000 based on a committee report of which the petitioner



was unaware, and despite the petitioner filing a detailed reply on 16.06.2000, his services were again terminated via Memo No. 1311 dated 21.06.2000 (Annexure P/2) on the erroneous ground that no reply had been filed. Following a period of serious illness due to a paralytic attack, the petitioner challenged this termination in CWJC No. 4619 of 2006, wherein this Hon'ble Court, by a common order and judgement dated 26.06.2006 passed in LPA No. 946 of 2003, and analogous cases directed the authorities to reconsider the cases of the employees in light of the principles of regularization settled in the *Uma Devi* case. Despite these directions, the subsequent enquiry report held the petitioner's appointment illegal on the ground that he was promoted from a voluntary worker, neither any show cause notice nor any opportunity of hearing was given to the petitioner. On the other hand, Pradip Kumar Karn who was also absorbed to the post of clerk from Voluntary Worker by order issued vide memo no. 2787 dated 27.09.1989 (Anexxure P/3), has been held to be irregular was reinstated in service by order issued vide memo no. 1117(4) dated 20.09.2007 prompting a further challenge in CWJC No. 8110 of 2009. By an order dated 06.10.2009 passed in CWJC No. 6575 of 2009 and analogous cases, the impugned enquiry report was quashed with directions



to reinstate the petitioner with all consequential benefits, highlighting a clear case of discrimination as other similarly situated employees like Ashok Kumar Verma (Annexure P/4) and Binod Narayan had already been reinstated via Memo No. 1117(4) dated 20.09.2007.

100. It is further submitted that in compliance with the judicial order , a formal reinstatement order was finally issued via Memo No. 3248 dated 22.10.2016 (Annexure P/10) under the signature of the Civil Surgeon-cum-CMO, Madhubani, granting the petitioner all salary and consequential benefits from the date of termination. Following his reinstatement, the petitioner served until his superannuation from service on 31.10.2016, upon attaining the age of 60 years, while posted as a Basic Health Worker at the Primary Health Centre, Lakauhi, Madhubani. Subsequent to his retirement, the respondent authorities sanctioned and paid all post-retiral benefits, including pension, gratuity, leave encashment, GPF, and Group Insurance, acknowledging his status as a permanent employee. The petitioner continued to receive his monthly pension regularly for several years until the sudden and arbitrary interference by the respondent authorities in the year 2023.



101. The Learned Counsel submits that the respondent authorities issued the impugned order via Memo No. 2998 dated 27.09.2023 (Annexure P/11), abruptly stopping the petitioner's pension without any prior enquiry, proceeding, or opportunity of hearing, which is a blatant violation of the principles of natural justice and Article 311(2) of the Constitution of India. The respondents cited Civil Appeal No. 7879 of 2019 and Civil Appeal No. 8649 of 2018 as justification, despite the petitioner not being a party to those proceedings and the judgments therein being *in personam* rather than *in rem*. It is contended that the petitioner's rights, having been settled through multiple rounds of litigation and his subsequent retirement as a permanent employee, cannot be divested by an administrative order. Furthermore, the action is highly discriminatory as other individuals such as Arun Kumar Mishra and Surendra Kumar Mahto continue to receive their pensions, and even those who were parties to the Civil Appeals, such as Surendra Prasad, remain unaffected, thereby rendering the impugned order against the petitioner *mala fide*, arbitrary, and violative of Article 14 of the Constitution.

SUBMISSION ON BEHALF OF RESPONDENT

NO. 4/the Civil Surgeon-cum-Chief Medical Officer,



Madhubani.

102. The Learned Counsel for Respondent No. 4 submits that the petitioner's initial appointment to the post of Basic Health Worker, purportedly made via Memo No. 216 dated 26.12.1985 (Annexure P/1), is inherently illegal, void *ab initio*. It is contended that the appointment letter itself categorically describes the petitioner as a "voluntary worker," a designation for which no sanctioned post exists within the State Government's cadre. Furthermore, this appointment was made without following any transparent or constitutional recruitment process, such as the issuance of a public advertisement, adherence to reservation policies, or the conduct of a competitive selection procedure. The petitioner also failed to demonstrate that he possessed the mandatory technical qualifications and specialized training required for the post of Basic Health Worker at the time of his induction. Consequently, the petitioner's entry into service was a "backdoor entry," which does not confer any legal right to hold a civil post or claim the status of a permanent government servant.

103. The Learned Counsel further submits that the legality of the petitioner's service was subject to a



comprehensive review by a Five-Man Inquiry Committee, which was constituted under the directions of this Hon'ble Court and whose findings have been upheld by the Hon'ble Supreme Court. The said Committee scrutinized the records of thousands of employees in the Health Department and explicitly found the petitioner's appointment to be illegal, placing his name at Serial No. 228 of the official Inquiry Report. These findings have attained legal finality following the authoritative judgment of the Hon'ble Supreme Court in Civil Appeal No. 8649 of 2018 (*State of Bihar & Ors. vs. Devendra Sharma*) and Civil Appeal No. 7879 of 2019. In these landmark rulings, the Apex Court held that appointments made against non-existent posts, by incompetent authorities, or without following the due process of law are nullities. The court further clarified that any subsequent orders of reinstatement or regularization, if based on such void appointments, are equally unsustainable and cannot be used to shield an illegality.

104. It is further submitted that in light of the specific directions passed by the Hon'ble Supreme Court, the respondent authorities were legally bound to rectify the error and stop the disbursement of public funds to individuals whose appointments were judicially determined to be illegal. The impugned order



issued via Memo No. 2998 dated 27.09.2023 (Annexure P/11) was passed in strict compliance with paragraph 36 of the judgment in Civil Appeal No. 7879 of 2019, which explicitly states that such appointees are not entitled to salary, pension, or any other retiral benefits. Since the petitioner's very inception in service was fraudulent and void, the principles of natural justice or the protections under Article 311 of the Constitution of India are not attracted, as no vested right can flow from a void act. The fact that the petitioner managed to secure reinstatement in 2016 and briefly drew a pension was the result of an administrative oversight or mistake, which the State is fully empowered to correct at any stage. Therefore, the stoppage of pension is neither arbitrary nor discriminatory, but a necessary execution of the law as settled by the highest court of the land, rendering the present writ petition devoid of any merit.

SUBMISSIONS ON BEHALF OF RESPONDENT NO.

2/the Director in Chief Health Service, Government of Bihar, Patna.

105. The Learned Counsel for Respondent No. 2 submits that the petitioner's initial appointment as a Basic Health Worker, purportedly made via Memo No. 216 dated 26.12.1985, is



fundamentally illegal and void *ab initio*. The appointment was made against a non-existent post of "voluntary worker," which is not a sanctioned cadre post under the State Government, and was executed without any public advertisement or competitive selection process. The Five-Man Inquiry Committee, whose findings were upheld by the Hon'ble Supreme Court in Civil Appeal No. 8649 of 2018 (*State of Bihar vs. Devendra Sharma*), specifically identified the petitioner's appointment at Serial No. 228 as illegal. Consequently, the petitioner never acquired the status of a valid government servant, and any benefits previously granted were based on a legal nullity.

106. It is further submitted in the counter affidavit that the stoppage of the petitioner's pension via Memo No. 2998 dated 27.09.2023 is a direct and mandatory implementation of the law settled by the Hon'ble Apex Court. In Civil Appeal No. 7879 of 2019, the Court explicitly ruled that individuals whose appointments are found to be illegal are not entitled to any monetary benefits, including salary or pension. Since the petitioner's entry into service was a "backdoor entry" lacking statutory backing, he cannot claim protection under Article 311 of the Constitution or the principles of natural justice. The State is under a legal obligation to stop the drainage of public exchequer



funds to those whose appointments have been judicially declared void, and therefore, the impugned order is neither arbitrary nor malafide.

107. In the supplementary counter affidavit, the Learned Counsel for Respondent No. 2 submits that the petitioner's plea of discrimination and "pick and choose" is legally untenable. The petitioner has cited names of other individuals, such as Arun Kumar Mishra and Surendra Kumar Mahto, who are allegedly still receiving pensions; however, it is a settled principle of law that Article 14 of the Constitution is a positive concept and cannot be invoked to perpetuate an illegality. Even if certain individuals are erroneously receiving benefits, the petitioner cannot claim a "right to equality" in illegality to demand the continuation of his own unauthorized pension. Each case is governed by the specific findings of the Inquiry Committee and the subsequent mandates of the Hon'ble Supreme Court.

108. Furthermore, it is submitted in the supplementary counter affidavit that the petitioner's contention that the Supreme Court judgments in the *Devendra Sharma* and related cases are *in personam* is factually and legally incorrect. Paragraph 45 of the judgment in Civil Appeal No. 7879 of 2019 clearly indicates that the ruling is *in rem*, as it set aside all similar orders passed by the



High Court regarding these illegal appointments in the Health Department. The petitioner's status was specifically adjudicated by the Committee as illegal, and that finding has attained finality. As such, the respondent authorities have acted within their jurisdiction to rectify an administrative error and comply with judicial mandates, necessitating the dismissal of the present writ petition.

REJOINDER ON BEHALF OF PETITIONER

109. The Learned Counsel for the petitioner, by way of rejoinder to the counter affidavit, submits that the petitioner's appointment as a Basic Health Worker was the result of a valid selection process and was not a "voluntary" engagement, and any claim to the contrary by the respondents is factually incorrect and denied. It is contended that the respondent authorities have adopted a "pick and choose" and discriminatory approach, as several individuals whose appointments were also scrutinized by the Inquiry Committee such as Pradeep Kumar Karn, Ashok Kumar Verma, and Binod Narayan have been reinstated in service despite being similarly or even more irregularly situated. Furthermore, other employees appointed under the same order (Memo No. 216 dated 26.12.1985), specifically Sri Arun Kumar Mishra and Sri Surendra Kumar Mahto, have superannuated and continue to receive their pensionary benefits without any



interruption, making the stoppage of the petitioner's pension a clear instance of hostile discrimination and a violation of Article 14 of the Constitution.

110. It is further submitted in the rejoinder that the judgments of the Hon'ble Supreme Court in the *Devendra Sharma case and Kirti Naryan case* (dated 30.11.2018 and 17.10.2019) were passed *in personam* and do not bind the petitioner, who was never a party to those proceedings. The respondents' reliance on these judgments to unilaterally stop the petitioner's pension is legally untenable, especially since the petitioner's right to reinstatement was already finalized by this Hon'ble Court in earlier litigation (CWJC No. 8393 of 2009). This is further supported by the case of Sri Uday Shankar Prasad (MJC No. 3948 of 2022), where the State was compelled to pay full arrears of salary and benefits after its attempts to justify termination were rejected by the court. The impugned order dated 27.09.2023 was issued without any fresh inquiry, notice, or opportunity of hearing, thereby violating the principles of natural justice and rendering the action of the respondent authorities totally illegal and void *ab initio*.

CWJC NO. 351 of 2024



111. The relief(s) sought for by the petitioner is as follows:-

“For a direction to the respondents concern to grant pension to the petitioner who has superannuated from the post of Basic health worker on 31.1.2022 and after he retirement all the retirement benefit have given to the petitioner even the pension was also paying but all of sudden without any show cause/notices the pension of the petitioner has stopped referring of Memo No. 2468 dated 17.5.23 issued by the Respondent Civil Surgeon, Muzaffarpur and the letter No. 1008(4) dated 15.7.23 issued by the Director in Chief, Patna and also memo No. 259 dated 13.7.23 issued by the Regional Additional Director Muzaffarpur in implementation of the two order passed by the Hon'ble Supreme Court in which the petitioner was not a party in that case. And/Or pass such any order/orders, writ/writs, direction/directions for which the petitioner is found to be entitled in the facts and circumstances of the case.”

SUBMISSION ON BEHALF OF PETITIONER

112. The Learned Counsel for the petitioner submits



that the petitioner, Satyadeo Singh, was appointed to the post of Basic Health Worker on 03.06.1989, vide Memo No. 1720 (Annexure P/1) issued by the then Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur. This appointment was made against a sanctioned and vacant post of the Basic Health worker at Primary Health Centre Kanti, Muzaffarpur. Following his appointment, the petitioner joined his duties at the Primary Health Centre, Kanti, Muzaffarpur on 05.06.1989 and discharged his responsibilities with sincerity throughout his career. It is further submitted that during his service period, the petitioner's salary was duly fixed and verified by the District Accounts Officer, Muzaffarpur, who determined that the salary fixation was correct, leading to the formal confirmation of his service. The petitioner also became eligible for and received the benefits of the 1st, 2nd, and 3rd MACP scheme based on his satisfactory performance. On this basis, his pay scale was officially certified by the Respondent District Accounts Officer on 24.12.2021 (Annexure P/2). The Learned Counsel for the Petitioner further submits that the petitioner served the Health Department for over three decades and eventually superannuated from his post on 31.01.2022. After his retirement, the respondent authorities processed and sanctioned all his



retiral benefits, including his regular pension. The learned counsel highlights that the Respondent No. 6 issued Memo No. 415 dated 15.07.2023 (Annexure P/3) abruptly stopped the petitioner's pension followed under illegal/forged/irregular, this action was purportedly taken in implementation of orders passed by the Hon'ble Supreme Court in Civil Appeal No. 8649 of 2018 and Civil Appeal No. 7879 of 2019, despite the petitioner not being a party to those proceedings.

113. Further, the Learned Counsel for the petitioner states and submits that on 16.5.23 a letter has been issued, vide letter No. 722 (4) under the signature of the office on Special duty, Department of Health, Bihar, Patna and another letter No. 891(4) dated 20.6.23 has been issued by the Director in Chief (Disease Control, Public Health Para Medical) Health service, Patna, to the Civil Surgeon cum Medical Officer, Muzaffarpur by which it has been asked to submit a enquiry report of the employee working in the different health services of the district of Muzaffarpur. The respondent civil Surgeon cum Chief Medical Officer based on the enquiry report received from the Regional Additional Director Health Service, Tirhut Division, Muzaffarpur sent consolidated enquiry report prepared in a prescribed format to the Director in Chief (Disease Control,



Public Health Para Medical) with a joint signature of the Regional Additional Director enquiry report dated 04.07.2023 (Anexxure-P/4). In the aforesaid report the name of the petitioner has been mentioned at Serial No.19 and the nature of the services have found to be valid. Despite his service being valid, the stoppage of pension by the respondent authorities without serving any notice to the petitioner has caused the petitioner great hardship, prompting him to file a formal representation before the authorities on 02.08.2023 (Annexure P/5), which remained unaddressed by the respondent authorities, hence, the learned counsel for the petitioner prays for the restoration of his pension and the quashing of the illegal orders.

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 3/the District Magistrate, Muzaffarpur AND 8/The District Treasury Officer, Muzaffarpur.

114. Learned Counsel for Respondent Nos. 3 and 8 submits that these respondents are neither the competent authorities for the redressal of the petitioner's grievances nor are they directly concerned with the actual stoppage of his pension, as the petitioner was drawing his pension from the Begusarai Treasury and not from the Muzaffarpur Treasury. It is submitted that while the In-charge Medical Officer of the Primary Health Centre, Kanti, Muzaffarpur, initiated a request for the stoppage



of pension via Letter No. 415 dated 15.07.2023 (Annexure-R/A), the final modification of pension data and the cessation of payments effective from October 2023 were carried out by the Treasury Officer, Begusarai, following correspondence with the Accountant General, Patna. The answering respondents further clarified that the role of the District Accounts Officer, Muzaffarpur, is strictly limited to verifying the correctness and accuracy of pay fixations made by the DDO and does not extend to certifying the genuineness or legitimacy of an employee's initial appointment. Consequently, since the petitioner's PPO was issued for the Begusarai Treasury (Annexure-R/A/1) and the administrative actions were based on departmental directives from the Health Department, Respondent Nos. 3 and 8 are not related to the core issues of the instant writ and have no role in the restoration of the benefits sought by the petitioner.

SUBMISSION ON BEHALF OF RESPONDENT NO. 5/the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur.

115. Learned Counsel for Respondent No. 05 submits that the present writ application is devoid of merit as the petitioner's initial appointment to the post of Basic Health Worker on 03.06.1989, vide Memo No. 1720, was *void ab initio* and lacked legal sanctity. It is submitted that the service of the petitioner was initially terminated by the Civil Surgeon-cum-



Chief Medical Officer, Muzaffarpur, on 13.01.2004, on the ground that the appointment was illegal. This order of termination was subsequently challenged by the petitioner and others in CWJC No. 7145 of 2004, which was finally heard and passed in favor of the petitioner, but the State preferred an appeal before the Hon'ble High Court, numbered as LPA No. 3355 of 2004, which was disposed of with certain directions to the State to decide the case of the petitioners and other. It is further submitted that pursuant to the directions of this Hon'ble Court in LPA No. 946 of 2003, the State government constituted a Five-Member Committee to examine the validity of such appointments and classify employees into three categories: those who secured employment on false/forged documents, those with illegal appointments, and those with irregular appointments. After that an enquiry report dated 31.12.2008 was submitted, wherein the name of the petitioner was explicitly placed in the category of "Illegal Appointment," thus, appointment of the petitioner being void ab initio and was cancelled and the services of the concerned employees were terminated. Although the petitioner challenged this enquiry report in CWJC No. 6575 of 2009 and was reinstated in service during the pendency of the litigation.



116. The learned counsel highlights that the legal status of such illegal appointments was finally adjudicated by the Hon'ble Apex Court in the cases of *State of Bihar & Ors. Vs. Kirti Narayan Prasad* (Civil Appeal No. 8649 of 2018) and *State of Bihar & Ors. Vs. Devendra Sharma* (Civil Appeal No. 7879 of 2019). The Hon'ble Supreme Court, vide orders dated 17.10.2019 and 30.11.2018 respectively (Annexure-A series), and in the light of above judgment and order of Hon'ble Apex Court which has attained finality in the case of the petitioner. It is submitted by the Learned Counsel that in light of the Hon'ble Apex Court judgment, the Director-in-Chief, Health Services, Bihar, issued Letter No. 1008(4) dated 11.07.2023 (Annexure-B), to direct all Civil Surgeons and other concerned authorities to terminate the services of those persons whose appointments were held to be illegal or forged. Consequently, vide Memo No. 2468 dated 15.07.2023, (Annexure-C) issued by Civil Surgeon cum Chief Medical Officer, Muzaffarpur, terminating the petitioner's service as the appointment of the petitioner was found to be illegal and not followed the due process and also the committee examined the correctness of appointment and found illegal. Finally, the Learned Counsel for the respondent contends that the petitioner has distorted the factual matrix and



suppressed material facts regarding the "Illegal" classification of his appointment by the Five-Member Committee, while approaching this Hon'ble Court. It is stated that since the appointment itself was found to be *void ab initio* and the findings of illegality have attained finality through the judgments of the Hon'ble Supreme Court, the petitioner cannot claim a vested right to pension, as pension is a reward for "lawful" and valid service. Therefore, the action taken by the respondent authorities via Memo No. 2468 dated 15.07.2023 (Annexure-C) is legally sustainable and consistent with the law of the land, and the writ petition is fit to be dismissed.

SUBMISSION ON BEHALF OF RESPONDENT NO. 10/Accountant General, Bihar, Patna.

117. Learned Counsel for Respondent No. 10 (Accountant General (A&E), Bihar, Patna) submits that the petitioner, Shri Satyadeo Singh, retired from the post of Basic Health Worker on 31.01.2022, and his pensionary benefits, including pension, gratuity, and Commuted Value of Pension (CVP), were duly authorized following the receipt of the sanction order from the In-charge Medical Officer, Community Health Centre, Kanti, Muzaffarpur, as evidenced by Letter No. 01 dated 01.01.2022 (Annexure-B). It is submitted that the



respondent's office subsequently received a communication from the same In-charge Medical Officer requesting the stoppage of the petitioner's pension, following which the office issued instructions to the Treasury Officer, Muzaffarpur, via Letter No. 484 dated 28.08.2023 and Letter No. 1479 dated 16.10.2023 (Annexures C and D). This action was taken in light of the administrative decision contained in Letter No. 2468 dated 15.07.2023 (Annexure-A), issued in compliance with the directives of the Director-in-Chief, Health Services, Bihar. The learned counsel for the respondent contends that the matter is essentially administrative in nature, pertaining to the department concerned, and that they have already requested the In-charge Medical Officer, Kanti, Muzaffarpur, to apprise them of the final departmental decision via Letter No. 2250 dated 31.01.2024 (Annexure-E). Consequently, it is maintained in the counter affidavit that there is no laches on the part of the Accountant General's office, as they have acted strictly in accordance with the sanctions and requests made by the competent departmental authorities. The counsel representing for the Respondent-State in all these writ petitions have adopted the arguments advanced by Sri Manish Kumar, learned counsel for the Respondent-State in the lead case of Pawan Kumar Jha in CWJC No. 17271 of 2023.



CONSIDERATION

118. On the basis of the materials available on record and the arguments advanced by the respective parties in all the cases, the following issues emerged for consideration, which are accordingly, being framed for adjudication of the disputed issues, which are as under:-

Issue 1: Whether the State can retrospectively alter a retired employee's status of appointment as "forged" or "illegal" after the successful completion of a full tenure of service, the formal issuance of a Pension Payment Order (PPO), and the grant of all the retiral benefits, considering that pension is a vested right in the nature of "property" under Article 300A of the Constitution of India and not a mere bounty at the discretion of the Government?

The status of an employee as a permanent servant is formally crystallized and recognized by the State once they have superannuated and been issued a Pension Payment Order (PPO). After an individual has completed their full tenure of service and the government has sanctioned and granted pension and all the retiral benefits such as GPF, leave encashment and gratuity etc., it is legally impermissible to retrospectively change/reduce



their status of appointment to "forged" or "illegal". The issuance of a PPO signifies a finality to the employer-employee relationship, confirming that the individual served as a valid employee in the service, and this settled status cannot be unilaterally upended after retirement.

State of Jharkhand & Ors v. Jitendra Kumar Srivastav & Anr AIR 2013 SC 3383, the Hon'ble Apex Court has observed as under:

"7. It is an accepted position that gratuity and pension are not the bounties. An employee earns these benefits by dint of his long, continuous, faithful and un-blemished service.

....the Constitution Bench in Deoki Nandan Prasad v. State of Bihar and Ors .wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon any one's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab and Anr. V. Iqbal Singh (1976) 11LLJ 377SC".

8. It is thus hard earned benefit which accrues to an



employee and is in the nature of "property". This right to property cannot be taken away without the due process of law as per the provisions of Article 300 A of the Constitution of India."

Issue 2: Whether the principles of estoppel and acquiescence preclude the State from challenging an appointment after four decades of continuous service and formal ratification?

The principles of estoppel and acquiescence preclude the State from challenging the validity of an appointment after approximately four decades of continuous service. During this long tenure, the employee was not only allowed to work but was also granted promotions and had their service formally ratified through reinstatement orders issued with the consent of the concerned authorities. By failing to raise objections during the active service period and by actively affirming the employee's position through administrative actions, the State has waived its right to contest the appointment, as the employee has spent their entire professional life relying on the State's recognition of their role.

Moreover, when the issues according to the State authorities were already crystallized by the Hon'ble Apex Court in the case of *Devendra Sharma (Supra)* and as also in the case of *Kirti Narayan (Supra)* and in the opinion of the authorities of the State,



the enquiry committee report was approved by the Hon'ble Apex Court and the same was equally applicable to all such employees whose names were forming part of the said report as formulated by the Five Men Committee in the case of Purnendu Solankit (supra) (though, factually, there were only three members in the Committee) then there was no occasion for them to have allowed all these petitioners to have continued in service till the date of retirement and further to have also granted them their pension and pensionary benefits upon their successful superannuation while the aforementioned judgments of Hon'ble Apex Court had already been passed during their service period itself.

Issue 3: Whether the State can legally challenge the validity of an appointment to infringe upon vested pension rights after the employer-employee relationship has been severed through unconditional superannuation, and whether the "termination" of a retired employee's service is a concept recognized by law in the absence of a formal departmental proceeding?

The unconditional superannuation of an employee, followed by the sanctioning of retiral benefits and the issuance of a regular pension, creates a definitive legal severance of the



employer-employee relationship. Any attempt by the State to hold the initial appointment illegal or forged the service of a retiree without any show cause is a legal fallacy, as one cannot terminate a relationship that has already ceased to exist. In the absence of a departmental proceeding initiated during active service, the persons are no longer a "delinquent employee" but a "pensioner" whose rights are protected under Article 300A. Consequently, the State cannot retrospectively apply service-tenure remedies to a pensioner to bypass the specific procedural requirements and statutory protections afforded to retired persons, under the Bihar Pension Rule, 1950.

In Chandra Kishore Sharma v. The State of Bihar & Ors (CWJC No. 13706 of 2023), the Hon'ble Coordinate Bench held:

“Once an employee is allowed to superannuate unconditionally and all the retiral benefits and other dues have been sanctioned and when the employee is getting regular pension, the tie between the employer and employee would automatically severed; in absence of any pending departmental proceeding. Thus, in the opinion of this Court, the only remedy which had left with the State respondent authorities was the procedure available under the Bihar Pension Rules, 1950 but the same has not been



done. The termination of the service of an employee after retirement is unknown to the legal jurisprudence in absence of any departmental proceeding on mere show cause notice. Once the relationship of the employer and employee comes to an end, there is no question of termination of service of an employee, that too on the ground that his initial appointment was bad in law. The delinquent employee would be deemed to be in service, although he has reached the age of superannuation, only if a valid departmental proceeding had been initiated. The departmental proceeding cannot be said to be initiated merely on issuance of a show-cause notice.”

Issue 4: Whether the judgments of the Apex Court in the *Devendra Sharma* and *Kirti Narayan* cases constitute *in rem* mandates applicable to all employees of the Health Department, or are they *in personam* rulings limited strictly to the litigants involved, thereby precluding the State from applying their adverse findings and its implication to the petitioners a non-party under the doctrines of natural justice?

The judicial rulings of the Apex Court in the *Devendra Sharma* and *Kirti Narayan* cases are strictly *in personam* judgments, meaning they are limited to the specific litigants involved in those particular disputes and do not



constitute *in rem* mandates applicable to every employee within the Health Department. The language used by the Hon'ble Supreme Court in its judgments are remarkably very clear and specific, repeatedly referring to "the writ petitioners" and "the instant cases" in the context of the specific batch of appeals before it. This indicates that the Hon'ble Apex court was adjudicating the individual service records and the specific findings of the State Committee regarding those particular litigants. Consequently, these judgments cannot be applied as a blanket mandate to strip away the settled constitutional rights of other employees, who were not parties to those proceedings and whose appointments were not the subject of that specific judicial scrutiny.

In State of Bihar & Ors v. Kirti Narayan Prasad (2019) 13 SCC 250 the Hon'ble Apex Court held:

“16. In the instant cases, the writ petitioners have filed the petitions before the High Court with a specific prayer to regularise their service and to set aside the order of termination of their services. They have also challenged the report submitted by the State Committee. The real controversy is whether the writ petitioners were legally and validly appointed. The finding of the State Committee is that many writ petitioners had secured appointment by producing fake or forged appointment letter or had been



inducted in government service surreptitiously by the Civil Surgeon-cum-Chief Medical Officer concerned by issuing a posting order. The writ petitioners are the beneficiaries of illegal orders made by the Civil Surgeon-cum-Chief Medical Officer. They were given notice to establish the genuineness of their appointment and to show-cause. None of them could establish the genuineness or legality of their appointment before the State Committee. The State Committee on appreciation of the materials on record has opined that their appointment was illegal and void ab initio. We do not find any ground to disagree with the finding of the State Committee. In the circumstances, the question of regularisation of their services by invoking para 53 of the judgment in Umadevi (3)⁴ does not arise. Since the appointment of the petitioners is ab initio void, they cannot be said to be the civil servants of the State. Therefore, holding disciplinary proceedings envisaged by Article 311 of the Constitution or under any other disciplinary rules shall not arise.

17. Therefore, the civil appeals filed by the writ petitioners in the aforesaid batch of appeals are hereby dismissed. The civil appeals filed by the State of Bihar are allowed and the writ petitions filed before the High Court of Patna in the said cases are hereby dismissed. There shall be no order as to costs.”

The distinction between judgments *in rem* and *in personam* rests fundamentally on the principle that any individual who could potentially be affected by a judicial decision is entitled to appear and assert their own rights by



becoming an actual party to the proceedings. While judgments *in rem* are intended to declare the status of the subject matter and render it as such for the broader peace of society ensuring that social relations are not left in doubt as this doctrine is primarily designed to provide clarity and finality through a solemn adjudication. Such a situation typically arises when a decision involves broad policy matters, like a scheme of regularization, where the intention is to give a benefit to all similarly situated persons regardless of whether they specifically approached the court. In those instances, an obligation is cast upon the authorities to extend the benefit of the pronouncement universally. However, this logic cannot be inverted to justify the summary deprivation of a non-party's rights; the public policy of maintaining social stability actually supports the petitioner, whose long-settled status should not be disturbed by judgments that were never intended to act as universal mandates for the forfeiture of earned pensions, much less, when these issues of grant of pension or its forfeiture was not a part of adjudication by the Hon'ble Apex Court.

The distinction between judgments *in rem* and *in personam* was further clarified by the Hon'ble Supreme Court in *State of Uttar Pradesh and Others v. Arvind Kumar Srivastava*



and Others (2015) 1 SCC 347, where it was observed:

"22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons."

As implied by the Apex Court in Arvind Kumar Srivastava, the fundamental motive behind treating a judgment as in rem is to maintain equality under Article 14 and avoid unnecessary litigation by extending benefits to all similarly situated persons. However, this logic cannot be inverted to mean that a judgment which infringes the rights of a specific set of litigants can be used as a universal mandate to infringe the settled constitutional rights of others. Article 14 of the Constitution embodies the concept of positive equality alone



and not negative equality. Therefore, while the State is obligated to extend judicial benefits to all similarly situated employees to avoid discrimination, it is constitutionally barred from using an in-personam judgment of termination or pension stoppage against one set of employees to justify the summary deprivation of another's livelihood. To deny the petitioner their pension based on adverse findings in cases where they had no opportunity to defend their specific service record is a violation of both the principles of natural justice and the mandate of equal treatment under Articles 14 and 16.

Furthermore, the Supreme Court in **Poonam v. State of Uttar Pradesh and others (2016) 2 SCC 779** reaffirmed that, *“The basic principle behind the doctrine of natural justice is that no order should be passed behind the back of a person who is to be adversely affected by the order. The principle behind the proviso to Order 1 Rule 9 that the Code of Civil Procedure enjoins it and the said principle is also applicable to the writs.”* This principle, ensures that a person cannot be bound by a judgment rendered in a case where they had no opportunity to defend their specific service record or the unique circumstances of their own appointment. Since the present petitioners were not parties to the *Devendra Sharma* or *Kirti Narayan* litigations,



those judgments remain *in personam* and cannot be used to justify the stoppage of their pension. As per the settled proposition of law, Article 14 of the Constitution embodies the concept of positive equality alone and not negative equality. Consequently, the State cannot claim a right to treat the petitioner's appointment as forged simply because other appointments were found to be so in a different litigation, as those *in personam* rulings do not bind non-parties.

Issue 5: Whether an appointment allegedly secured on forged documents or an illegal appointment and the subsequent continuation in service under such an appointment can be challenged or treated as void by the State after the employee has successfully completed their entire tenure of service and superannuated?

A continuous service record of over forty years creates a powerful legal presumption of validity that must override the "void ab initio" doctrine. When an employee has retired after a lifetime of service, the sheer duration of their tenure creates an equitable right that protects them from being rendered a "non-entity" by the State. In such instances, the long-standing recognition of service by the government effectively cures any technical or procedural defects that may have existed



at the time of entry, ensuring that a life's work is not invalidated by administrative hindsight. In a similar case, the legal position regarding long-standing service has been significantly strengthened by the Supreme Court in **Naresh Kumar Sinha v. State of Bihar (2025) SCC OnLine SC 2339**, which established that an employee who has served regularly for a substantial period acquires the status of a permanent employee and cannot be terminated based on mere bald allegations of fraud documents or missing records without holding a formal enquiry, the relevant para of the judgement is quoted hereinbelow:

“22. In view of the above, in absence of any foundation of fraud in the pleading or in the counter affidavit, we are not inclined to accept such plea of fraud. Moreover, the reason of termination as mentioned in the order impugned is also contrary to the documents placed on record. This is a case wherein after appointment the appellant has worked for more than 16 years regularly and was regularly paid salary by the department, which is a fact. As such, he has acquired the status of permanent employee. Thereafter, such issuance of show cause notice by merely referring to one LPA and the correspondence of the department regarding non-issuance of appointment order is improper. Because, a mere correspondence stating non-issuance is not sufficient to prove an allegation of fraud and warrant termination from service.



In our view, mere bald statement that the appointment was based on forged document or on fraud is not sufficient. In case after such a long time of service, if the department was of the opinion that the order of appointment is not available on record, an enquiry should have been conducted for looking into the alleged forgery in issuance of the appointment order. In absence of any such enquiry, such allegations of fraud and fabrication leading to termination are unjustified.”

Issue 6: Whether the immediate stoppage of pension without a prior show-cause notice or a fair hearing constitutes a flagrant violation of the Principles of Natural Justice, particularly when such an action infringes upon the constitutional rights of a retired individual and deprives them of their sole means of subsistence?

The abrupt stoppage of a pension without the issuance of a prior show-cause notice or a fair hearing is a flagrant violation of the Principles of Natural Justice. These principles are fundamental and must be followed even in cases where an appointment is alleged to be forged, as the consequences of such an allegation are infringing constitutional rights of the individuals. The right to be heard is an essential safeguard against arbitrary state action, ensuring that an individual is not deprived of their sole means of post-retirement subsistence without a proper inquiry into the facts of their specific case. In



the case of **Shravan Kumar Jha State of Bihar** reported in **AIR 1991, S.C. 309**, the Apex Court in fact while dealing with a similar situation had held that even where it was held that the principle of natural justice had to be complied even where it was alleged that the appointment of the persons was made by an incompetent authority.

The Hon'ble Supreme Court in **Jogendrasinhji Vijaysinghji v. State of Gujarat, (2015) 9 SCC 1** that the term "entitled to defend" confers an inherent right to a person if he or she is affected or is likely to be affected by an order to be passed by any legal forum, for there would be violation of natural justice. The principle of *audi alteram partem* has its own sanctity but the said principle of natural justice is not always put in straitjacket formula. That apart, a person or an authority must have a legal right or right in law to defend or assail. Natural justice is not an unruly horse. Its applicability has to be adjudged regard being had to the effect and impact of the order and the person who claims to be affected; and that is where the concept of necessary party becomes significant.

Issue 7: Whether the State is legally precluded by the mandatory four-year statutory barrier under the proviso to Rule 43(b) of the Bihar Pension Rules from initiating



disciplinary proceedings or withholding pensionary benefits based on allegations of a forged appointment occurring several decades prior, especially in the absence of any formal finding of "grave misconduct" or "pecuniary loss" during the period of service?

Admittedly, all these petitioners were allowed to successfully complete their tenure, upon which they were appointed and subsequently, reinstated in service upon interference of the Hon'ble Court and after having attained the age of superannuation was allowed to superannuate from service and their pension and family pension with all pensionary benefits including commuted valued pension was sanctioned.

According to Rule 43(b) of the Bihar Pension Rules, the State lacks the legal authority to stop or withhold a pension unless there is a formal finding of "grave misconduct" or "pecuniary loss" caused to the government during the period of service and the departmental inquiry must be initiated within four years from the date of misconduct or pecuniary loss. In cases where the employee has retired without any departmental proceedings or evidence of misconduct, the summary stoppage of pensionary benefits is a direct violation of statutory



protections. The pension is a hard-earned right and a form of "deferred portion of compensation" that cannot be withheld without adhering to the strict conditions of the pension rules.

**Jagannath Jha v. State of Bihar & Ors LPA No. 1173
of 2018**

3. "....That apart, disciplinary proceedings cannot be initiated on the alleged allegation that appellant had produced fake documents at the time of his initial appointment in the year 1983 and further to deduct/cut his pension and it is not permissible in the light of Bihar Pension Rules which prohibit taking any action in respect of 4 years old alleged incident. In the present case, the alleged incident is stated to be on 12.08.1983, the date on which appellant was appointed."

**State of Bihar & Others v. Mohd. Idris Ansari 1995
Supp (3) SCC 56**

"In the present case, the respondent retired on 31-1-1993 and the show-cause notice under Rule 139(a) & (b) was issued on 27-9-1993 on the ground of grave misconduct and not on the ground that service record of the pensioner was not thoroughly satisfactory. It was issued by the State Government as sanctioning authority. It had, therefore, to be read with Rule 43(b). Such notice therefore, could cover any misconduct if committed within 4 years prior to 27-9-1993 meaning thereby it should have been committed during the period from 26-9-1989 up-to 31-1-1993 when the respondent retired. On a conjoint reading of Rule 43(b) and Rule 139(a) there is no escape from the conclusion that as the alleged misconduct was committed by the respondent prior to 4 years from the date on which the show-cause notice dated 27-9-1993 was issued, the appellant authority had no



power to invoke Rule 139(a) and (b) against the respondent on the ground of proved misconduct. Consequently, it has to be held that proceedings under Rule 139 were wholly incompetent.”

In pursuance of the above precedents, it can be noted that the four-year statutory barrier mandated by the proviso to Rule 43(b) has long since elapsed from the date of the petitioner's initial appointment, rendering any subsequent departmental inquiry into the alleged forged or illegal nature of that appointment legally impermissible. Relying on the ***Md Idris Ansari (supra)*** and ***Jagannath Jha (supra)*** judgment, it is clear that it is not permissible for the State for initiating disciplinary proceedings or effecting deductions from a pension based on allegations related to the appointment of service several decades ago.

CONCLUSION

119. On close scrutiny of facts and judgments brought on record for consideration and after giving thoughtful consideration to the arguments advanced by the petitioners and respondents, this Court finds that the judgments rendered by the Apex Court in the *Devendra Sharma* and *Kirti Narayan* cases, clearly did not cover the specific case of the petitioner. Had the ratio laid down in those cases been equally applicable to the petitioner's specific appointment, it would have been



implemented immediately to prevent them from completing their full tenure of service until the date of superannuation as the state respondent were well aware about the aforesaid judgments. The fact that the petitioners were permitted to complete their entire career and were initially granted their pension which was abruptly stopped years later by referring to the aforementioned judgments, further justifies the conclusion that these rulings do not deal with the issues of these specific petitioners. Therefore, the stoppage of pension after it had already been sanctioned and paid upon superannuation is legally unsustainable, as the State cannot retrospectively apply judicial findings that did not disturb the petitioner's status during their active service or at the time of their retirement.

120. Furthermore, the judgments in *Devendra Sharma* and *Kirti Narayan* are strictly *in personam* and are only binding *inter parties* between the specific litigants involved. The principle of a judgment *in rem* is governed by the fact that such orders grant benefits to the public at large or to all similarly situated persons; however, the cases referred to by the State do not decide any such universal benefits that would allow their findings to be applied equally to all the petitioners. Since these petitioners were neither a party to those litigations nor given an



opportunity to defend their record within that context, applying those findings now would significantly prejudice their settled constitutional rights. Because these judgments do not constitute a universal mandate, the State is precluded from using them as a tool to bypass the legal protections afforded to a retired employee, whose service was formally recognized and ratified by the government for decades.

121. It is also important to note that the cases of the present petitioners are fundamentally distinct from the ratio laid down in *LPA No. 709 of 2023 (State of Bihar & ors v. Deepak Kumar)*, as well as the two aforesaid judgments of the Apex Court, as the core issues of the judgments were on the procedural requirements for the termination of services, while the case of these petitioners involve issues of stoppage of pension and pensionary benefits already granted to them. Therefore, the ratio laid down in the above judgments is not applicable to the case of these petitioners as they continued in service till the date of superannuation on the strength of judicial intervention by this Court on their respective writ petitions/Letters Patent Appeal wherein their termination orders were set aside and such orders/judgments were never put to



challenge.

122. Upon detailed consideration of the facts and the settled legal positions, it is evident that despite the State's belated allegations regarding the "forged" or "illegal" nature of the initial appointments, the petitioners were permitted to complete their full tenures of service and superannuate honourably, with pension and pensionary benefits being duly sanctioned and disbursed by the authorities. Crucially, the prior judicial adjudications rendered in favor of these petitioners in their respective writ petitions attained legal finality, as the State chose not to challenge those orders before the Apex Court or any higher forum available with the State.

123. In the specific case of the petitioner namely Pawan Kumar Jha, the Hon'ble Division Bench of this Court judgment in LPA No. 292 of 2014 passed in the case of this petitioner gave liberty to the state respondent for fact finding in light of Apex Court judgment in Devendra Sharma mandate; however, it is admitted that the requisite fact-finding and committee procedures were not concluded during his active service, and his rights remained protected under the Hemchandra Jha precedent. The State respondents notably came



up with an impugned order as contained in Memo No.390 (4b) dated 29.10.2025 during the pendency of the case of Pawan Kumar Jha in succession of the earlier impugned letter dated 29.09.2023 and 05.02.2024, which is purportedly been done to show the compliance of order passed in LPA No. 292 of 2014, and according to the petitioner the same has been passed unilaterally relying upon the enquiry committee report, which report according to the State Respondent has been approved by the Hon'ble Apex Court and the fact of unilateral decision taken vide order dated 29.10.2025 as per the petitioner, has not been denied by the State Respondent.

Furthermore, a clear case of discrimination is established, as the petitioners have highlighted in their rejoinders that other similarly situated persons, whose appointments were also questioned in the same five-member committee report, continue to receive their pensions without interruption. It must be emphasized that the allegation of "forgery" in the case of Pawan Kumar Jha appears to be legally impermissible, as it is based merely on the department's own failure to locate documents in its records rather than proof of fraud, and before the application of five-member inquiry report itself the principles of natural justice was not followed, as the



petitioners were never afforded an opportunity to be heard.

124. In CWJC No. 16069 of 2023, the core grievance arose on September 27, 2023, when the respondent authorities issued Memo No. 2998, stopping the petitioner's pension with immediate effect without prior notice or a hearing. During the pendency of this writ, the respondents further issued a reasoned order on August 20, 2024, rejecting the petitioner's representation for the restoration of his benefits. It was contended by the respondents that petitioner's appointment was fundamentally "illegal and void ab initio," asserting that he was erroneously described as a "voluntary worker" being promoted to a non-existent post. Five-Member Committee report, identified the petitioner's appointment (at Serial No. 143) as "illegal" rather than merely "irregular". The respondents indorse that because the petitioner's entry into service was fraudulent and bypassed constitutional mandates for public employment, he cannot be recognized as a "Civil Servant". Furthermore, a clear case of discrimination is established, as it is important to take note of the case of a similarly situated employee, Sri Uday Shankar Prasad, who was granted full financial benefits and regularization.

125. In CWJC No. 16670 of 2023, petitioner's



husband faced an abrupt termination in 2003 due to allegations of forged documents, which was stayed by this Court, following a legal trajectory in L.P.A. No. 946 of 2003 by which Court-ordered for re-examination of original service records in 2006, the Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, issued an order in 2008 withdrawing the termination and reinstating him unconditionally. Ultimately, the petitioner emphasizes that her husband's service records were already scrutinized and validated in 2008 following this Court order. Further, the respondents cannot unilaterally label the appointment as "forged" after the employee's death based on a "Five-Men Committee" report that was never shared with the petitioner and does not name her husband as a party to any fraud. It is pertinent to note that under Rule 43(b), a sanctioned pension cannot be withheld without a formal finding of grave misconduct during service, and since no such proceedings were initiated within the statutory limitation period, the cessation of her family pension is an unlawful exercise of power.

126. In CWJC No. 16761 of 2023, it is a matter of record that the abrupt stoppage of the petitioner's monthly pension and retiral benefits via Memo No. 1485 and Letter No. 255, both dated October 5, 2023, on the grounds that his initial



1987 appointment as a Basic Health Worker was "forged". The petitioner, who successfully completed training in 1974 and served for sixteen years before an instant termination in 2003, was previously reinstated following this Court's order in CWJC No. 16907 of 2009, which quashed a 2006 enquiry report labelling his appointment fraudulent. Significantly, while the State's appeal (LPA No. 1105 of 2013) was dismissed in 2014 with liberty to initiate fresh legal proceedings, the authorities failed to act, allowing the petitioner to superannuate on January 31, 2018, and receive regular pensionary benefits for five years. The respondents rationalize the current cessation of payments by citing Supreme Court directives in State of Bihar v. Devendra Sharma regarding forged and illegal appointments, asserting that the petitioner's service was void ab initio due to a fraudulent certificate; conversely, these punitive measures were implemented without the issuance of a show-cause notice or an opportunity for a hearing, which prima facie constitutes a gross violation of the principles of natural justice and Article 14 of the Constitution, furthermore, several other persons involved in those same Supreme Court appeals, such as Surendra Prasad, Parmeshwar Yadav, and Khurshid Alam, continue to receive their pension and benefits.



127. In CWJC Nos. 17963 of 2023, 18408 of 2023 and 351 of 2024, the petitioners contends that their services were regularized following multiple rounds of litigation, including a Division Bench dismissal of the State's appeal in different L.P.A., which purportedly attained finality regarding their service legality prior to their superannuation. Further, the contention raised by the respondents authority that petitioners appointment was consistently classified as "illegal" and "void ab initio" by a five-member committee constituted under judicial direction, and that the matter has reached absolute finality through the Hon'ble Supreme Court judgments in State of Bihar vs. Kirti Narayan Prasad and State of Bihar vs. Devendra Sharma, which held that void appointments confer no rights to terminal benefits. The core issue for determination is whether the respondent authorities can retrospectively stop the pension of an employee, who retired after decades of service and successful prior litigation, by relying on subsequent in personam Supreme Court rulings without fresh notice or inquiry or any show cause notice before stopping pension and family pension of these petitioners respectively, and the five-men committee report was prepared behind the back of these petitioners, therefore, it is not justified to apply the report in



case of these petitioners without giving any opportunity of being heard.

128. It is pertinent to note that no parameters were ever placed on record, which fixed to determine the basis on which appointments were classified as illegal, irregular, or forged. Moreover, several similarly situated persons, whose names were also included in the five-men committee report under these very categories, continue to receive pension without any obstruction from the respondent authorities. Further, neither during the course of proceedings nor in their counter affidavits have the respondent authorities provided any reasoning or justification explaining the basis of such discriminatory treatment among similarly situated individuals and stopping the pension of these petitioners by applying the Apex Court judgment in ***Devendra Sharma*** and ***Kirti Narayan (supra)*** on pick and choose basis. While the only submission made in this regard by the respondent is that illegality cannot be invoked perpetually, however, they themselves have made a submission to uniformly apply the Apex Court judgments in ***Devendra Sharma*** and ***Kirti Narayan***. Therefore, these two contradictory stands are taken by them creating a class within class which is impermissible in law.



129. The subsequent administrative action to stop pensionary benefits after the master-servant relationship has been completely severed is devoid of legal sanction. Once an employee has superannuated and the relationship has reached its natural conclusion, the State is precluded from reopening issues related to the validity of the initial appointment. The reliance placed by the respondents on the Devendra Sharma and Kirti Narayan judgments to justify the stoppage of pension even after the benefits had been formally sanctioned is not justified in law. Those rulings were predicated on findings and committee reports utilized while the individuals were still in service. If the petitioners' appointments were to be governed by those mandates, the State was required to have acted during their service tenure; having allowed them to retire unconditionally, the State cannot now retrospectively apply those judgments to rescind settled post-retirement rights. Because the relationship between the employer and employee has been severed and completed on their respective dates of superannuation, the respondents are now estopped from raising entry-level disputes to deprive the petitioners of their earned means of subsistence.

130. The record clearly reflects that the petitioners received regular salaries against posts with attached pay scales



and were granted all consequential benefits in terms of the Bihar Pension Rules, 1950, up until the date of their superannuation. These consistent administrative actions by the State authorities demonstrate a formal and continuous recognition of their services throughout their entire service period. Furthermore, when coercive actions were attempted by the authorities during the relevant period of service, such orders were successfully challenged and interfered with by the Hon'ble Court, ensuring the petitioners continuance in service until they attained superannuation. Consequently, pension and pensionary benefits were extended in their favor after their respective dates of retirement, signifying a settled and finalized status of their services that the State is now attempting to reopen.

131. The judgments relied by the state respondents of the Apex Court in the Devendra Sharma and Kirti Narayan cases are strictly in personam in nature, as the judicial scrutiny was confined to the specific service records and forged appointments of the individual litigants then before the Court. Unlike a judgment in rem, which declares a status for the broader public or establishes a universal policy benefit, these rulings utilized restrictive language specifically referring to "the instant cases" and "the writ petitioners" to resolve the particular



disputes at hand. The core issues in the referred judgments pertained to the procedural requirements for the termination of services of active employees. In contrast, the present case involves a retired employee whose service was formally recognized by the State for decades until superannuation. Consequently, these findings do not constitute a blanket mandate that can be extended to all employees within the Health Department, nor can they be used to strip away the settled constitutional rights of individuals who were not parties to those original proceedings.

132. Also, the reliance placed by the respondents on the judgment of the Division Bench of this Court in LPA No. 709 of 2023 is misplaced and cannot be made applicable to the present cases. In that matter, the challenges before the Division Bench pertained to the termination of active services, whereas the present writ petitions specifically challenge the stoppage of pension. This distinguishing feature is apparent on the face of the record. Similarly, the Apex Court judgments in Devendra Sharma and Kirti Narayan Prasad, which formed the basis of the decision in LPA No. 709 of 2023, are also inapplicable. Those rulings adjudicated the validity of appointments and subsequent terminations based on the five-member committee report, but



the issue of pension was not part of those litigations. In the present matter, the issue of initial appointment is not under challenge; rather, the petitioners are before this Court against the arbitrary stoppage of their earned pension after they have already superannuated.

133. This Court finds that the case of Jagannath Jha v. State of Bihar & Ors (LPA No. 1173 of 2018) squarely covers the current dispute, as it specifically deals with the illegal stoppage of pension after it had already been sanctioned and disbursed. The ratio in *Jagannath Jha (supra)* is equally applicable here, as the stoppage of pension is beyond the jurisdiction of the respondent authorities under Rule 43(b) of the Bihar Pension Rules. The rule mandates that no proceedings can be initiated for a misconduct or pecuniary loss that took place more than four years prior. Since the allegations here relate to initial appointments made several decades ago and the four-year statutory barrier must be counted from the date of the alleged incident i.e. from the date of appointment, any inquiry into the legality of the appointment is now barred under applicable law. No departmental proceedings were initiated during the petitioners' service, and none could have been initiated after their retirement regarding issues of appointment dating back



over thirty years.

134. Termination order passed in respect of these petitioners based on the five men committee report has already been set aside by this Court on their respective petitions and when appealed before the higher forum, the same has not been interfered and the order passed in their respect has already attained finality and as such, the stand taken by the Respondent-authority by referring to the two judgments of Hon'ble Apex Court in the case of *Kirti Narayan Prasad (supra)* and *Devendra Sharma (supra)*, the appointment of all these writ petitioners cannot said to be *void ab initio* because for holding any appointment to be illegal or forged, it is incumbent upon the respondent authorities to follow principles of natural justice and as also by resorting to the procedure prescribed, they are obliged to record a finding with regard to their appointment being bad in law, which admittedly, having not been done in respect of these petitioners during their service period or thereafter and all such order questioning their appointment followed with termination order, passed during the service period have already been set aside by this Court and such orders have attained finality. The only legal resort available for passing impugned orders in question was to have taken recourse of the procedures as



prescribed under Bihar Pension Rules, 1950, but the same having not been done and straightway the respondents have passed impugned orders stopping the pension of these petitioners, for an allegation which is beyond the limitation prescribed under the statute, is wholly unjustified and unsustainable in law, in view of law laid down by the Hon'ble Apex Court in the case of *Md. Idris (supra)*.

135. Upon careful consideration, this Court finds that raising issues of "illegal" or "forged" appointments after an employee has superannuated and had their pension sanctioned, is impermissible. By their own actions of recognizing the service and sanctioning retiral benefits, the authorities are legally estopped under the principles of estoppel and "*approbate and reprobate*."

DIRECTIONS

136. Accordingly, the impugned orders for stoppage of pension in the case of Pawan Kumar Jha (lead case) as contained in Memo No. 424 dated 29.09.2023 and subsequent recovery orders (*vide* memo no. 183 dated 05.02.2024) and unilateral compliance order as contained in Memo No. 390(4b) dated 29.10.2025, are set aside. As the recovery of amounts had already been stayed by this Court, so any recovery made shall



be refunded forthwith. Further, the impugned orders for stoppage of pension in respect of petitioner of CWJC No. 16069 of 2023 issued *vide* Memo No. 2998 dated 27.09.2023, petitioner of CWJC No. 16670 of 2023 issued *vide* Memo No. 415 dated 15.07.2023, petitioner of CWJC No. 16761 of 2023 issued *vide* Memo No. 1485 dated 05.10.2023, petitioner of CWJC No. 17963 of 2023 issued *vide* Memo No. 332 dated 15.07.2023, petitioner of CWJC No. 18408 of 2023 issued *vide* Memo No. 415 dated 15.07.2023, and petitioner of CWJC No. 351 of 2024 issued *vide* Memo No. 2998 dated 27.09.2023 are also set aside.

137. In consequence of the order impugned having been set aside by this Court, the authorities are required to restore the pension allowed in their favour and arrears of pension shall also be calculated from the date of passing of impugned orders and shall be paid to all these petitioners who are entitled to the admissible pensions which were being paid to the employees or legal heirs accordingly.

138. Additionally, in respect of ***Pawan Kumar Jha in CWJC No. 17271 of 2023***, the entitlement of Mandey/remuneration with regard to contractual employment after superannuation w.e.f. 01.03.2023 to 29.09.2023, shall also



be adjudicated in reference to official records for which directions were already issued by the Hon’ble Division Bench in LPA No. 292 of 2014 as against the contractual post. The aforementioned directions in the all the cases shall be complied with by the authorities within a period of twelve weeks from the date of production/receipt of a copy of this order/judgment.

139. Accordingly, all the aforesaid writ petitions stand disposed of.

(Ajit Kumar, J)

perwez

AFR/NAFR	AFR
CAV DATE	11.03.2026
Uploading Date	23.04.2026
Transmission Date	

