

## Nirmala Jha Vs State Of Bihar

**Court:** Patna High Court

**Date of Decision:** May 4, 2023

**Hon'ble Judges:** Purnendu Singh, J

**Bench:** Single Bench

**Advocate:** Purushottam Kumar, Mujtabul Haque, Ram Yash Singh

**Final Decision:** Disposed Of

### Judgement

1. Heard Mr. Purushottam Kumar Jha, learned counsel appearing on behalf of the petitioner; Mr. Mujtabul Haque, learned GP 12 appearing on behalf

of the respondents and Mr. Ram Yash Singh, learned counsel appearing on behalf of the Accountant General, Bihar.

2. The petitioner has filed the present writ application for the following relief(s) :

i. To hold and declare that the action of the respondent no.7 (The Accountant General, Bihar) in not sanctioning 100 % pension in

favour of the petition is contemptuous to the order dated 15.04.2014 passed in CWJC no.8998 of 2007 (vide Annexure -1) and passed is in

teeth of the resolution of the Finance Department, Bihar as contained in Memo No.50 dated 15.01.2016 (vide Annexure 10).

ii. For commanding the respondents concerned especially respondent no.7 (The Accountant General, Bihar) to sanction full pension amount

of monthly pension i.e. 19,720/- w.e.f. 01.06.2007 in favour of the petitioner and also ensure arrear of pension from 01.06.2007.

iii. For quashing Ref. No.Pen 02/PEN130516020887/436712 P4 dated 27.05.2016 (vide Annexure 18) and also to refund recovered

gratuity amount of Rs.85,794/- and also to ensure payment of left over claim of gratuity of rs.1,38,295/-and other reliefs.

3. The undisputed facts are that the Health Department, Government of Bihar, vide order No.584 (De.Chi) dated 12.06.2008 issued sanctioned order

for payment of pension, gratuity and commuted value of pension to the Accountant General, Bihar and thereafter vide departmental letter no.1219

(De.Chi) dated 03.12.2008, a reminder was sent to the Accountant General to issue authority letter of differential amount of admissible pension and

commuted value of pension. Vide letter dated 28.12.2018, the Accountant General was again communicated, however, the Accountant General sat

over the matter and did not issue the authority letter and sought clear decision/direction regarding sanction order of 10% pension/gratuity to the

petitioner. Several communications thereafter were made by the Officer-on-Special Duty, Health Department, which is annexed as Annexure

to the counter affidavit, however, the Accountant General wrote a letter vide letter no.12221 dated 29.12.2022 that the deceased employee

Late Mukti Nath Jha (the original petitioner) is no more, as such the death certificate of Late Dr. Mukti Nath Jha is required to be provided so that the

amended authority letter may be issued. The Officer-on-Special Duty communicated the said fact to the widow of the deceased, vide letter no.145

(Aa.Chi) dated 01.02.2023 to furnish the death certificate of Late Dr. Mukti Natha Ojha. The death certificate of Late Dr. Mukti Nath Ojha was

submitted and the pension payment order has been issued. The widow of the deceased employee is now getting family pension as admitted by the

learned counsel appearing on behalf of the petitioner Mr. Purushottam Kumar Jha. The question arises as to whether the deceased employee's

pension during his life time was paid or not ?

4. It is submitted by the learned counsel appearing on behalf of the respondents that 90 % of the pension was released to the deceased employee and

10 % was withheld. The respondents have admitted in paragraph no.9 of the counter affidavit that in the light of Finance Department resolution

no.50/Vi dated 15.01.2016, the petitioner is entitled to get full pension. In view of the departmental memo no.963 (Aa.Chi.) dated 16.08.2022, full

pension has been sanctioned, however, the same has not been received by the petitioner. The petitioner is only aggrieved by the recovery of gratuity

amounting to Rs.1,41,161/-, out of which the petitioner had deposited through vouchers amounting to Rs.53,500/-. In spite of the fact that the petitioner

has deposited Rs.53,500/-, entire amount of Rs.1,41,161/- has been recovered from the account of the petitioner without adjusting the amount already

paid.

5. Considering the aforesaid grievance of the petitioner, the petitioner is required to file evidence in support of his claim by furnishing voucher(s).

6. This Court on several occasions has directed the present Principal of the College to come along with the records of the College and all the office

records relating to vouchers to verify the claim of the petitioner that he had deposited the money. The College has suffered loss. In spite of the sincere

endeavour of the Principal of the College, the voucher has not been searched out.

7. At this stage, learned counsel for the petitioner Mr. Purushottam Kumar submits that the petitioner is illiterate and he will provide her proper

assistance in searching out the voucher on which basis the bank account of the College can be verified from the Bank (Central Bank of India) and

subsequently the State Bank of India where the account of the College lies.

8. The Principal of the College admits that the details of the account of the College is available with him with respect up to period 2005 whereas the

petitioner had retired in the year 2007. The details of the account with respect to the period 2005-2007 must be made available to the petitioner.

9. This Court finds the irregularities, which has come on the record is one example. In large scale, misappropriation of fund of the College has taken

place for which only the petitioner can not be held responsible.

10. The Principal of the College is directed to hand over all the statements of the account to the Health Department so that the Health Department

can look into the affairs of the College in general and the financial irregularities committed in particular.

11. The Accountant General, Bihar is directed to release remaining 10 % of the pension to the petitioner forthwith.

12. It is being informed by the learned counsel appearing on behalf of the Accountant General that 10 % of the pension, which was not credited in the

account of the petitioner, has already been credited on 6.3.2023.

13. The Accountant General, Bihar is warned for delay caused on his part. He is now required to take personal interest in in cases of pensioners and

to ensure payment in time soon after the sanction letter is received. In the present case, the sanctioned letter was received in his office in the year,

2022.

14. With the above direction/observation, the present writ application is disposed of.