

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16628 of 2024

Puspa Sinha Wife of Late Arun Kumar Sinha, resident of Slum Quarter No.-85, Kankarbagh, P.S.- Kankarbagh, District- Patna.

... ... Petitioner/s
Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna, New Secretariat Building, Bailey Road, Patna - 800001.
3. The Director-in-Chief, Health Services, Health Department, Govt. of Bihar, Patna, New Secretariat Building, Bailey Road, Patna- 800001.
4. The Addl. Secretary, Health Department, Govt. of Bihar, Patna, New Secretariat Building, Bailey Road, Patna - 800001.
5. The Under Secretary, Health Department, Govt. of Bihar, Patna, New Secretariat Building, Bailey Road, Patna - 800001.
6. The Accountant General, Bihar, Patna.
7. The Treasury Officer, Patna Secretariat Treasury, Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma, Adv.
Mr. Ajit Kumar Singh, Adv.

Mr. Onkar, Adv

For the Respondent/s : Government Pleader (26)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV JUDGMENT

16-10-2025

Heard Mr. Sanjay Kumar Verma, learned counsel

for the petitioner assisted by Mr. Ajit Kumar Singh and learned
AC to Government Pleader-26.

2. The instant writ petition has been filed for
quashing the order passed by the Respondent Health
Department as contained in Memo No. 517(12) dated
10.06.2024, issued under the signature of the Director-in-Chief,
whereby and whereunder, the concerned authority has been



pleased to uphold the order of punishment inflicted against the petitioner's husband *vide* order as contained in letter no. 536(5) dated 29.04.2019, issued under the signature of the Under Secretary to the Government, Department of Health by which forfeiture of 100% pension has been passed. However, the order dated 10.06.2024 is passed while disposing of the petitioner's representation filed in view of the order dated 28.08.2023 passed by the Co-ordinate Bench in C.W.J.C. No. 8830/2020 and besides this, the petitioner has sought quashing of the office order issued by Health Department under the signature of Under Secretary to the Government as contained in Memo No. 536(5) dated 29.04.2019 declaring the same to be without jurisdiction and passed in violation of the principles of natural justice.

3. The brief facts of the case is that the petitioner's husband was appointed on the post of Computer on temporary basis w.e.f. 05.08.1965 and got regular promotion on the post of Junior Statistical Assistant in the year 1971. The petitioner's husband was further promoted to the post of Senior Statistical Assistant in the year 1972 and consequently, pay revision was directed in favour of the petitioner's husband in the year 1986 by placing him in the revised pay-scale of Rs. 1200 to 1800/-.



4. In the year 1990, a criminal proceeding was initiated against the petitioner's husband in reference to the allegations concerning irregularity in purchase of fallopian tube and accordingly, the Vigilance case got instituted *vide* Vigilance Case No. 100/1992. The Department of Health decided to initiate departmental enquiry against the petitioner's husband on the same allegation and, accordingly, was placed under suspension *vide* office order issued under the signature of Director-in-Chief, Health Services as contained in Memo no. 78 dated 25.10.1991.

5. Learned counsel for the petitioner submits that Charge Memo was issued *vide* Memo no. 601(5) dated 15.09.1991 and the departmental proceeding was undertaken as per the ***Rule 55 of Classification, Control and Appeal Rules*** (for short 'CCA Rules') has initiated by appointing Conducting Officer and accordingly, the departmental proceeding is said to have proceeded.

6. It has next been submitted that the Charge Memo sans the documents upon which the employer based its finding for drawing the charge sheet, was served and despite petitioner's husband requisite demand for serving relevant papers for submitting reply to the charge sheet *vide* his letter



dated 24.10.1991, was not entertained and no documents pertaining to imputation of charges was ever served to him. It has next been submitted that after the Charge Memo was served, no proceeding further proceeded in the departmental enquiry and no concrete development ever seen the light of the day in the said pending departmental enquiry and, accordingly, with long passage of time, the petitioner's husband got retired from his service with effect from 30.11.2003 and his provisional pension was fixed and the monthly payment was made after December, 2003.

7. Learned counsel for the petitioner next submits that the departmental proceeding was initiated against the petitioner's husband under the provisions of 'CCA Rules' but after the retirement, the said inquiry was never converted into under the Bihar Pension Rules and the inquiry as initiated under the provisions of 'CCA Rules' automatically comes to an end in law on 30.11.2003. It has further been submitted that in the departmental enquiry, the Enquiry Officer in a very casual and routine manner, even without properly conducting the enquiry by offering opportunity of hearing supported with the material documents, submitted enquiry report before the Disciplinary Authority, i.e., the Director-in-Chief, Health Services and to



utter surprise, the Disciplinary authority acting upon the report of Enquiry Officer issued second show-cause notice on 22.07.2004.

8. Learned counsel for the petitioner submits that even without there being a full-fledged inquiry having been carried out by the Enquiry Officer, where at no point of time, the Presenting Officer ever appeared to present the case of the Department. Still, the enquiry report was prepared and the Disciplinary Authority acted upon the same by completing the formalities of issuing second show-cause notice to the petitioner's husband which was duly responded by indicating in the said response that the procedures of conducting the Departmental Enquiry in terms of 'CCA Rules' or under Bihar Pension Rules have been violated but the authorities without taking any notice to such objections have proceeded to pass orders on the report so submitted by the Enquiry Officer. The objection of the petitioner's husband showing grievance of non furnishing the requisite documents as demanded was lastly accepted on repeated representations at the stage of second show-cause by issuing a letter to the petitioner's husband on 08.09.2004, was only allowed to submit fresh response but still no documents pertaining to the allegations levelled in the Memo



of Charge was ever supplied even at the stage of second show-cause, which would be apparent from the demand reiterated by the petitioner's husband in his response submitted for consideration by the Disciplinary Authority.

9. Learned counsel for the petitioner submits that the petitioner was ultimately forced to move to the Hon'ble Court, for getting the departmental enquiry concluded which was pending for a long time and no order was being passed in the pending enquiry, by filing writ petition being CWJC No. 18334 of 2011 in which the Co-ordinate Bench passed the order dated 25.11.2011 admitting the said application and directed the respondents to file counter affidavit in this case, which was later on disposed of *vide* order dated 21.09.2022 reserving liberty to the petitioner to agitate any other contentions raised in the petition in a pending litigation in which petitioner has assailed the order of penalty.

10. It is in this background, the Disciplinary Authority-cum-Director-in-Chief, Health Services recorded a finding that the relevant file connected with the allegations for which the charges have been framed is not available and the action proposed for which the proceedings for holding the petitioner' husband guilty of the charges which is said to have



been initiated in connection with the purchase of the Fallopian tube at the instance of petitioner's husband could not be established, therefore, it may not be justified to withhold the pension of the petitioner's husband and accordingly, opinion to this effect was rendered by the Disciplinary Authority, who being Director-in-Chief, Health Services, Bihar *vide* opinion dated 27.11.2012 (Annexure- P/5 to the writ petition).

11. Learned counsel for the petitioner next submits that after submission of the said opinion by the Disciplinary Authority, the provisional pension which the petitioner's husband received till October, 2014, was suddenly stopped from 2014 and therefore, the petitioner's husband had to again knock the door of Hon'ble Court by filing CWJC No. 2656 of 2015 praying *inter alia* for release of his provisional pension, which was disposed of on 06.04.2015 directing the Disciplinary Authority, the Director-in-Chief, Health Services to ensure that the amount of provisional pension of the petitioner's husband from the month of November 2014 onwards be paid by way of arrears and current pension within a period of one month from the date of receipt of the order with a further direction given in respect of payment of gratuity amount by commanding the Director-in-Chief, Health Services to pass



appropriate order after obtaining the order of competent authorities and intimate the decision in respect of payment of provisional pension to the petitioner's husband.

12. It has further been submitted that though the provisional pension of the petitioner was released but the request made in terms of the direction issued in the aforesaid writ petition for payment of gratuity was not dispose of and ultimately for not carrying out the order passed by the Coordinate Bench in letters and spirit, the petitioner's husband had to file contempt petition being MJC No. 1870 of 2015. Learned counsel further submitted that in order to evade the contempt proceeding, a show-cause was filed in the said contempt case annexing Memo No. 89 dated 25.01.2018, showing consideration of claim of petitioner's husband for payment of gratuity on the basis of obsolete Circular of the Finance Department dated 22.08.1974 and got the contempt case dropped. However, the liberty was restored to the petitioner to take steps in accordance with law before the appropriate forum against the order of department of Health as contained in Memo No. 536(5) dated 29.04.2019 which is said to have been passed during the pendency of the contempt petition.

13. Learned counsel for the petitioner next



submits that the petitioner was again compelled to challenge the order passed by the Authority as contained in Memo No. 536(5) dated 29.04.2019 by filing appropriate Interlocutory Application in the pending writ petition being CWJC No. 8830 of 2020 which was filed for settlement of retiral dues and the same was disposed of by directing the authorities concerned to take a final decision with respect to entitlement of the petitioner and to ensure payment of dues to the petitioner in accordance with law considering the fact that the deceased employee had already died on 16.02.2020 and he was superannuated from the post of Senior Statistical Assistant and the widow of the deceased employee is aggrieved for non payment of retiral dues.

14. It is next submitted that petitioner filed a detailed representation for redressal of his grievances by annexing relevant documents in support thereof, but no decision was taken in the said matter and ultimately the petitioner was compelled to file contempt petition being MJC No. 457 of 2024 and while filing the show-cause, the authorities placed on record another order issued by the Director-in-Chief, Health Services which is contained in Memo No. 517(12) dated 10.06.2024 whereby the claim of the petitioner for payment of retiral dues was rejected keeping the order of punishment as inflicted



against the petitioner's husband in terms of forfeiture of pension and on having placed such order dated 10.06.2024 by way of show-cause in the said contempt petition and the contempt petition was disposed of *vide* order dated 02.08.2024 with a liberty to the petitioner to assail the same by instituting appropriate proceeding.

15. It has further been submitted that the impugned order nowhere discloses as to in absence of the said file, how the findings of the then Disciplinary Authority, where it has been stated that no liability could have been legally fastened in absence of appropriate records, which aspect of the matter is conspicuously absent and does not find any reference of the same with appropriate consideration in the impugned order.

16. In this background, the present/instant writ petition has been filed in which the challenge to the manner, the entire procedures for fastening the liability has been conducted is questioned and this Court, on the basis of the materials available and submission made by the parties, *vide* order dated 19.09.2025 passed the following order:-

"Learned counsel for the petitioner submits that on conclusion of the departmental enquiry, the enquiry report was submitted and the said report was



examined by the Director-in-Chief, Health Services after issuing show-cause notice and on consideration of the show-cause notice as well as the materials forming part of the enquiry report, the Director-in-Chief was of the view that no case of forfeiture of entire pension is made out against the petitioner's husband. The said report which is prepared by the Director-in-Chief is a detailed report appended with the writ petition as Annexure-P/5.

2. *Learned counsel for the petitioner next submits that the order contained in Memo No. 517(12) dated 10.06.2024 (Annexure-P/9) is said to have been passed by the officer of the same rank who being the Director-in-Chief, Health Services and without recording any difference of opinion differing with the findings recorded by the erstwhile Director-in-Chief who being the Disciplinary Authority in the case of petitioner's husband, another order which is said to have been passed forfeiting 100% of pension does not indicate the procedures adopted for differing the findings of earlier Disciplinary Authority and it is also well settled in law that a person of same rank could not have reviewed the findings of earlier incumbent who had recorded his findings after giving due opportunity of hearing to the petitioner's husband while he was alive.*

3. *From the order dated 10.06.2024 (Annexure-P/9) which is said to be a reasoned order, does not indicate any reason showing recording of difference of opinion providing opportunity of hearing to the petitioner's husband before passing the order impugned whereby 100% of pension is directed to be forfeited.*



4. Learned counsel for the petitioner next submits that when this order dated 10.06.2024 (Annexure-P/9) was passed by the Authorities, by then, the petitioner's husband had already died and according to the petitioner, no hearing was ever provided to him and such contention of the petitioner finds support from the recitals of the order itself, where it has categorically been mentioned by the author of the said impugned letter, who has recorded in the order that the petitioner's husband had died on 16.02.2020, still no reason assigned for violating the principles of natural justice and impugned order is said to have been passed.

5. For addressing on the legal issues raised in this case, learned counsel for the respondents seeks a short accommodation.

6. Accordingly, post it on 26.09.2025 retaining its position in the list.”

17. Learned counsel representing the State, pursuant to the order passed by this Court on 19.09.2025, has filed supplementary affidavit and in order to justify their action, has taken this Court to paragraphs-6 and 7 of the counter affidavit filed in compliance thereof, which are reproduced as under:-

“6. That it is stated and submitted that the then Director-in-Chief, Health services, Bihar, Patna had only expressed his opinion on 27/11/2012 after hearing the application submitted in reference to the second show cause notice based



Shri Arun Kumar Sinha, retired Statistical, Assistant, Health Department, in connection with the departmental proceedings initiated against him and Inquiry report submitted by the Conducting Officer on 10/06/2004.

7. That it is stated and submitted that finally the Health Department, Government of Bihar considered the matter in totality and by order issued vide memo No. 536(5) dated 29/04/2019, under signature of Under Secretary, Health Department, Bihar, Patna, the Health Department, Bihar, Patna, the Disciplinary Authority, agreeing with the findings and recommendation of the Conducting Officer, Shri C.K. Anil, the then Additional Secretary, in the departmental proceedings conducted under the relevant provisions of Rule 43 (B) of the Bihar Pension Rules, decides to deduct the full pension/gratuity (100%) of Shri Arun Kumar Sinha, the then Senior Statistical Assistant under the provisions of Rule 139 of the Bihar Pension Rules, 1950 for the substantiated charges of serious nature.”

18. From the stand so taken in the supplementary counter affidavit, pursuant to the legal questions framed, it is quite evident that the legal questions, which emanate from the present impugned order, wherein the first



legal infirmity which is said to have been caused in the course of conducting the departmental inquiry, where the Memo of Charge, has been served to the petitioner's husband without any material documents germane to the allegations forming part of form 'K' in terms of provisions of the 'CCA Rules', and despite opportunities having been provided to them during the course of hearing of this case, the Respondent authorities have not come out with any materials to show that the documents in support of the imputations so made in the Memo of Charge was ever produced/supplied to the petitioner's husband enabling him to understand the charge and submit his *bona fide* response. The respondents rather could not have been in a position to serve any such materials because there is a specific finding recorded by the Director-in-Chief, Health Services, who being the Disciplinary Authority *vide* its opinion rendered in the said inquiry dated 27.11.2012, after submission of the inquiry report based on which provisional pensions was allowed, from the report, it is unambiguously clear that the records pertaining to the purchase of Fallopian tubes were not available with the Department and therefore, no imputation could have been fastened against the petitioner's husband holding him liable in any matter and therefore, as per the opinion of the Disciplinary



Authority with regard to forfeiture of pension and other pensionary benefits was not found to be appropriate in law.

19. At this stage, while appreciating the submission of learned counsel for the petitioner as well as the Respondents, this Court finds that the valuable rights of the petitioner's husband has been violated and the questions which were framed to be answered by the Respondent-Authority on 19.09.2025, as to how the Disciplinary Authority who has passed the order impugned dated 10.06.2024 has assumed jurisdiction to review and sit over the findings of the Director-in-Chief, who had exercised his power in the same capacity being the Disciplinary Authority of the petitioner's husband.

20. From the materials available on record and after going through the contents of the impugned order, it would be quite evident that the author of the impugned order dated 10.06.2024 has himself recorded in its order that the petitioner's husband got died on 16.02.2020 and there is no explanation as to how in absence of any supportive materials to the imputation made, for which Memo of Charge is said to have been served, the findings to further punishment of forfeiture has been arrived. While the Authority of the same rank, who being the Disciplinary Authority of the petitioner's husband had once



recorded the finding that the records relating to the purchase is not available in the office and it would not appropriate to hold the petitioner's husband liable without there being any material to support the allegations.

21. In such background without answering to such legal questions, which were raised by the Authority of the same jurisdiction, the new incumbent being the Director-in-Chief, Health Services, in the same capacity has overlooked the same and without resorting to the procedures adopted for recording difference of opinion as provided in law has reiterated the same nature of punishment, which was earlier inflicted *vide* order as contained in Memo No. 536(5) dated 29.04.2019, and giving a new outfit to the said punishment order by keeping it in the fresh office order dated 10.06.2024 is said to have been passed which is impugned in this case. But, the question remained to be answered by the respondent authorities that whether the procedures as prescribed under the 'CCA Rules' was followed, while holding the petitioner's husband guilty of the charge as incorporated in the Memo, which is appended in the writ petition as Annexure-P/2, to which there is no justifiable reason said to have been assigned by the Respondents either in the impugned order or even have indicated such by



filings further counter affidavit or even the supplementary affidavit dated 26.09.2025 to satisfy this Court, which is said to have been filed pursuant to the order dated 19.09.2025 passed in this case.

22. Considering the aforesaid, this Court is of the opinion that the valuable rights of the petitioner's husband has been violated and the conclusion drawn to fasten the guilt based on which the consequential impugned punishment has been passed without any evidence and the same is completely in derogation of law laid down in the case of ***Union of India v. H.C. Goel; (1964) 4 SCR 718***, wherein it was held that the conclusion drawn to fasten the guilt must be based on cogent evidence and in absence of such evidence to support the conclusion of guilt cannot be sustained in law. Since the conclusion drawn to issue impugned punishment of forfeiture is contrary to the provisions of 'CCA Rules' and as also based on no evidence, therefore, the order of forfeiture of 100% of pension and gratuity as contained in Memo No. 517(12) dated 10.06.2024 upholding the order as contained in Memo No. 536(5) dated 29.04.2019 is wholly without jurisdiction and is unsustainable in law and accordingly, the same is set aside. Since, the original petitioner has already died as is apparent



from the impugned order, therefore, there is no question of remanding the matter for proceeding afresh from the stage of defect as is found to have occasioned in this case.

23. Consequently, the Respondent No.3 (the Director-in-Chief, Health Services, Health Department, Govt. of Bihar, Patna) is directed to pay all consequential benefits including the entire pensionary benefits with full amount of gratuity to the widow (petitioner) of the deceased employee within a period of three months from the date of communication/production of a copy of this order, failing which, the petitioner shall be entitled for Rs. 25,000/- towards the cost of litigation.

24. The instant writ petition stands allowed.

(Ajit Kumar, J)

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| AFR/NAFR | AFR |
| CAV DATE | 09.10.2025 |
| Uploading Date | 17.10.2025 |
| Transmission Date | 17.10.2025 |

