

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3871 of 2022

Urmila Kumari Daughter of Shiv Prasad, Resident of Mohalla-Phase I,
Ashiyana Nagar, P.S.-Rajeev Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Regional Education Department Director, Patna Division, Patna.
4. The Regional Education Deputy Director, Patna Division, Patna.
5. The District Programme Officer (Establishment), Patna-cum-Inquiry Officer, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Anuj Kumar, Advocate Mr. Gopal Krishna, Advocate
For the Respondent/s	:	Mr. Jitendra Kr. Roy 1 (Sc13) Mr. Hitesh Suman, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 04-09-2025

Heard Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner and Mr. Hitesh Suman, learned counsel for the State.

2. Several teachers were terminated from service on the ground that their initial appointments were irregular, which termination orders were put to challenge by filing various writ petitions before this Court including the petitioner whose writ petition No. was CWJC No. 19550 of 2016. All the writ petitions filed were disposed off by an order dated 21.02.2017 whereby the termination orders of the teachers including the petitioner were set aside with a liberty to the State



authorities to proceed afresh in accordance with law and pass appropriate orders after affording an opportunity of hearing.

3. It was thereafter that a departmental proceeding was initiated against the petitioner, who was working as Assistant Craft Teacher in the State Girls High School, on 11.04.2017 alleging that at the time of appointment of the petitioner as Assistant Craft Teacher in the year 1989, the petitioner was over aged and accordingly the petitioner's appointment as Assistant Craft Teacher was irregular.

4. As the petitioner retired from service on 31.01.2018, the departmental proceeding initiated on 11.04.2017 was continued under Rule 43(b) of the Bihar Pension Rules, 1950 vide Memo No. 29 dated 05.01.2019. On conclusion of the departmental proceedings continued under Rule 43(b) of the Bihar Pension Rules, 1950 the impugned order dated 12.07.2021 has been passed by the Regional Deputy Director Education, Patna Division, Patna (Annexure-13 to the writ petition) whereby petitioner's 100% pension, gratuity and encashment of earned leave has been withheld.

5. Challenging the impugned order dated 12.07.2021 issued by the Regional Deputy Director Education, Patna Division, Patna withholding the petitioner's pension, gratuity and encashment of earned leave, the petitioner has contended that under Rule 43(b) of the Bihar Pension Rules, 1950 the proceeding can be continued only with respect to an event which took place not more than four years before the institution of such proceeding. The petitioner has contended that since



the proceeding initiated against the petitioner is for the event which took place beyond four years, the said proceeding could not have been continued under Rule 43(b) of the Bihar Pension Rules, 1950.

6. In this regard learned senior counsel for the petitioner has submitted that this issue has been settled in an LPA preferred by a similarly situated person called **Geeta Kumari** in **LPA No. 866 of 2024**, wherein a departmental proceeding instituted and continued under Rule 43(b) of the Bihar Pension Rules, 1950 for the event that have taken place beyond four years of such institution of such proceedings have been held to be illegal and the order passed for withholding 100% pension, gratuity and earned leave has been set aside.

7. The State respondents have contested the case by filing a counter affidavit, wherein the factual aspect of the case have not been disputed but has referred to a decision rendered in **CWJC No. 14172 of 2021** in which writ petition the challenge made to such an order passed by the respondent authorities withholding the pension, gratuity and encashment of earned leave, pursuant to conclusion of a departmental proceeding initiated and continued under Rule 43(b) of the Bihar Pension Rules, 1950 have been dismissed.

8. At the same time learned Government Advocate has not disputed that the said decision rendered by the learned Single Judge in CWJC No. 14172 of 2021 was put to challenge in the LPA No. 866 of 2024, which LPA has been allowed vide judgment dated 29.10.2024, which has already been referred to hereinabove and thereby set aside



the orders passed by the respondent authorities withholding pension, gratuity and encashment of earned leave pursuant to conclusion of a departmental proceeding under Rule 43(b) of the Bihar Pension Rules, 1950 for an event which took place beyond four years from the institution of such a departmental proceeding.

9. Learned Government Advocate has, therefore, fairly submitted that the issue raised in the present writ petition for determination is squarely covered by the judgment rendered in the **LPA No. 866 of 2024**.

10. In that view of the matter as the issue raised in this writ petition for determination has been stated to be squarely covered by the judgment rendered in the LPA No. 866 of 2024, this writ petition is also allowed by setting aside the order dated 12.07.2021 passed by Regional Deputy Director Education, Patna Division, Patna (Annexure-13 to the writ petition).

11. The writ petition accordingly stands allowed.

12. Consequent upon setting aside of the order 12.07.2021 passed by Regional Deputy Director Education, Patna Division, Patna, the petitioner would be deemed to have retired from service and his pension be restored with immediate effect. The petitioner shall also be paid arrears of pension from the period when he has been denied such pension by reason of the impugned order in the writ petition, within a period of **six months** from today, i.e. **04.09.2025**.



13. In the event the arrears of pension of the petitioner is not paid within the period prescribed hereinabove, the same shall carry an interest of **5%**.

14. The writ petition is disposed off with the above directions.

(Nani Tagia, J)

Nishant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2025.
Transmission Date	NA

