

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road, Patna – 15**

File No **BHRC/COMP.** 1281/11

Case of **SITARAM SAHU**

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By order dated 13.4.2012 the Commission directed Provident Funds Directorate and the Secretary, General Administration Department, Government of Bihar – jointly and severally – to pay sum of rupees five thousand as compensation to the applicant. Later, on the application of the Joint Commissioner (Accounts Administration) for review of the order, the order was recalled by order dated 4.9.2012 and notice was issued to the Director (Administration) Education Department. In the light of the report of the Education Department notice was issued to the Accountant General, Bihar and the Provident Funds Directorate and the matter was heard at length on 2.11.2012 and today (26.11.2012).

In the course of hearing on 2.11.2012 attention of the Commission was drawn to letter no.63 dated 4.3.1994 of the office of the Accountant General by which details of deductions for various periods including 1974-75 were sent to the Provident Funds Directorate. It may be mentioned that the whole dispute in this case centred around the question as to whether the factum of deduction of Rs.150 for the year 1974-75 was within the knowledge of the Provident Funds Directorate. The provident fund accounts of government servants earlier used to be maintained by the Accountant General upto 1982, and if the Accountant General had indeed intimated the Provident Funds Directorate about the deduction in question, the Provident Funds Directorate was supposed to take into account the same and calculate the dues of the applicant. Assistant Commissioner, Provident Fund sought adjournment to ascertain the facts.

The matter was taken up for further hearing on 26.11.2012 in presence of the officials of the Provident Fund Directorate, Accountant General, the Education Department and the applicant.

Sri Arun Kumar Singh, Asstt. Commissioner, Provident Funds Directorate informed the Commission that the main file of the applicant is missing. He produced the supplementary/part file opened on the representation of the applicant. He stated that the applicant had been duly informed about the missing of file in 2010 itself. He submitted that efforts were made to trace the file but without success. Notices are being issued to different office staff in this regard and suitable action will be taken. On merit of the case, he submitted that the contribution/deduction of rupees 150 for the year 1974-75 has since been duly credited and his entitlement worked out at Rs.3989 with interest calculated up to November 2011.

In the normal course the matter should have come to an end but the Commission thought it appropriate to award compensation which in the facts and circumstances was quantified at rupees five thousand vide order dated 13.4.2012. But then, that gave rise to the question as to who should pay compensation?

There is no doubt that compensation should be paid either by the Accountant General or the Directorate of Provident Fund depending on the burden of culpability/default. As per the stand of the Accountant General the details were sent to the Directorate of Provident Fund on 4.3.1994 itself i.e. prior to applicant's superannuation. If that was so, the blame would lie with the Provident Fund Directorate. If the file is not traceable, the Provident Funds Directorate cannot claim any advantage. No person or body can claim any premium for its own mistake or default. And surely, the person concerned can not be made to suffer for the lapses of others.

The Commission finds no ground to disbelieve the stand of the Accountant General. As noted above, the particulars of the memo by which details of information for the year 1974-75 (among other periods) were sent to the Provident Funds Directorate – i.e. letter no.63 dated 4.3.1994 – have been mentioned. The office copy thereof is available in the file of the Accountant General the veracity of which has not been disputed even by the Provident Fund Directorate. The Directorate had earlier taken adjournment to find out steps, if any, taken on receipt of the said letter. Apparently, nothing had happened in the Directorate. Whether any action was taken or not and whatever might have happened to the file, the fact remains that the deduction/contribution of Rs.150 of the year 1974-75 was not taken in to account while calculating the Provident Fund dues of the applicant earlier. The Commission therefore – having given its anxious consideration – comes to the conclusion that the blame must lie with the Provident Funds Directorate and therefore the compensation – as ordered by the order dated 13.4.2012 – must be paid by it.

The Commission accordingly in partial modification of the order dated 13.4.2012 directs the Joint Commissioner (Accounts Administration) Provident Fund Directorate alone to pay sum of rupees five thousand as compensation to the applicant within six weeks and submit compliance report to the Commission.

Copy of this order may be sent to Joint Commissioner (Accounts Administration) Provident Funds Directorate for compliance.

Copy each may also be sent to (i) Accountant General, Bihar, (ii) Director (Administration) Education Department, Government of Bihar and (iii) the applicant for information.

Date: 30.11.2012

Justice S.N. Jha  
Chairperson