

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

File No **BHRC/COMP.** 2352/10

Case of Nirmal Kr. Sinha

16.12.2014

The petitioner, Nirmal Kr. Sinha, was an employee of Bihar State Food & Civil Supplies Corporation Ltd. At the time of his superannuation on 31st August, 2008 he was posted as Assistant Manager, Giridih branch office (Jharkhand).

The petitioner's grievance is that he has not been paid salary in accordance with the revised grades, pension and other pensionary benefits till date. The application has been made in 2010 before the Commission and unfortunately it took a long time for the Commission to decide. The time was consumed by trying an amicable settlement so that petitioner receives his dues either from Jharkhand state or Bihar state but none of the states has shown any compassion towards a person who has served the corporation for about four decades and is now living in misery as he retired in 2008. It is almost seven years that he is living without pension or pensionary benefits. This is the worst possible violation of human rights of a citizen.

The controversy is very short as to whether the State of Bihar has to pay the dues to the petitioner or it has to be paid by the State of Jharkhand as it is well-known these two states were one state i.e. Bihar and were divided on 15th November, 2000. During the hearing and while going through documents, it has become clear that although the state was divided in 2000, the Corporation

was not divided till 1st February, 2011. Now both sides rely on this order by which the Corporation and its assets were divided into two.

The Commission had issued a notice to the Jharkhand Corporation which has also sent a report. They have taken a stand that since the petitioner had retired in 2008 therefore he had to be paid his dues by the Bihar State Food & Civil Supplies Corporation Ltd. The Bihar Corporation takes a stand that in terms of the bifurcation of the Corporation liabilities of the areas falling to Jharkhand will have to be borne by the Corporation of Jharkhand. On the other hand, the State of Jharkhand maintains that since the petitioner retired in 2008 when the bifurcation had not taken place therefore the liability to pay pension and pensionary dues is with the Bihar Corporation. It is also being revealed that late Manoj Nath Tiwary, Head Assistant, late Rajendra Prasad, Assistant Accounts Officer and Sheikh Allauddin, Accountant were paid their dues by Bihar Corporation although they were working at Giridih after 2000. It is specifically mentioned that Sheikh Allauddin retired only a month before the petitioner.

The whole problem has occurred because the petitioner was not paid his dues immediately after his retirement. Had he been paid in 2008 or at any date before November 2011 when the Corporation was bifurcated, as was done in other cases, the problem would not have occurred. A 2011 order is of no consequence as far as the case of the petitioner is concerned because petitioner's pension and pensionary benefits were due in August 2008. Therefore, I have no hesitation in holding that the Corporation of Bihar is bound to pay the emoluments to the petitioner.

As a matter of fact when the petitioner retired on 31st August, 2008 the Jharkhand State Food & Civil Supplies Corporation Ltd. was not in existence and the only Corporation which was in existence was the Bihar State Food &

Civil Supplies Corporation Ltd. The stand of the Bihar Corporation is not understandable by the Commission as it is against the fact and law.

For denying the pension and pensionary benefits which became due on 1st September, 2008, the Bihar State Food & Civil Supplies Corporation Ltd. tries to rely on a document which came into existence in 2011. In these hard times it is not conceivable as to how the petitioner would be living his life. Whatever he had been able to save is being denied by the callous attitude of the Corporation and its employees. Therefore, I have no doubt in my mind that the Bihar Corporation is bound to pay the emoluments to the petitioner which were due to him in 2008. Having paid the dues to similarly placed officials by Bihar Corporation even after bifurcation of state, there is no reason for denying payment to petitioner.

In these circumstances, I direct that the petitioner be paid all his dues immediately preferably within a period of one month along with the interest of 10% on the amount due to the petitioner.

(Justice Bilal Nazki)
Chairperson