

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

**File Nos. BHRC/Comp. 1888/09; 2422/09; 3239/11;
771/11; 3316/10; 1237/12 & 3973/12**

**Case of (i) Dinesh Prasad Verma; (ii) Champa Devi (iii) & Others:
(Case of Payment of Salaries & Pensions to the Employees of
Cooperative Societies, Bihar (PACS Managers))**

6.5.2015

Petitioners present with their counsels Mr. Awdhesh Kumar Pandit and Mr. Sanjay Kumar. Mr. Nagendra Prasad, Deputy Registrar (Judicial), Department of Cooperation present.

These are various petitions filed by various persons but since the controversy in all the matters is same they were all along heard together. Two cases are mentioned as far as facts are concerned, one being BHRC/Comp-1888/2009, Dinesh Prasad Verma, complaint no.1 work as PACS Manager in Rohtas district under Sasaram Bhabua Central Co-operative Bank Ltd. Sasaram. Complaint no.2 is a widow of PACS Manager whose husband died in harness during service period in Siwan district. These persons have not been paid their salaries nor the benefits accrued to them after completing the service.

The matter is briefly stated: the petitioners have grievance that they have not been paid their salaries and other benefits which were due to them after completion of their service. The main case of the respondents is that Government is not in any way concerned with the issues of the salaries of the employees of Cooperative Societies. It is submitted that in the State of Bihar there is a three tier system of societies and each society has to contribute to

the salaries of the employees. Since the societies could not contribute their share, the salary remained unpaid.

It is submitted by Deputy Registrar (Judicial), Cooperation Department, Mr. Nagendra Prasad that the High Court and Supreme Court has held that the courts do not have jurisdiction to entertain such disputes. It is further vehemently stated by respondents that the State Human Rights Commission has no jurisdiction to entertain such dispute. Under Section 12 of the Protection of Human Rights Act, the Commissions are empowered to conduct inquiries and give directions in matters where there has been violation of human rights and it is nobody's case that denial of salaries of the employee is not violation of a human right, therefore, this Commission has no doubt that it could inquire into the matter of non-payment of the admitted salary.

At no stage, the respondents have contested the claim of the petitioner but it is submitted that State Government is not responsible for making the payments. I am not going to deal with that question in view of certain peculiar facts of the case. It appears that the matter has a long history of litigation and at one stage the matter had gone to the Supreme Court in a petition being Civil Appeal No.7357 of 1996 dated August 20, 1998.

The Patna High Court in petition no. CWJC No.2312 of 1991 had directed the State Government to absorb cooperative managers against the equivalent post in other departments of the State Government in terms of government decision dated 6.9.1986. The State had filed an appeal before the Supreme Court. The Supreme Court while dealing with the matter gave certain directions to the State Government by its order dated 4.3.1998. Thereafter, an affidavit came to the filed before the Supreme Court by the Deputy Registrar in the Department of Cooperation, Government of Bihar in which it is stated:-

“That this Hon’ble Court taking human approach desired:

- (a) “That the paid managers will be continued till their absorption in accordance with the law as and when vacancies arise in various government departments by relaxing the age to the extent possible.
 - (b) Wherever the age relaxation is to possible they will continue as paid managers till the age of superannuation on same terms and conditions on which they are not continuing.
 - (c) The paid managers who failed to pass the examination of recruitment as required to be held by Public Service Commission they will be given opportunity to sit for subsequent examination and till they pass the examination they will continue as paid managers on same terms and conditions.
5. That the State Government has considered the desire of this Hon’ble Court’s order dated 4.3.1998 and is agreeable to resolve the dispute as suggested by the Court.
 6. That the State Government is prepared to relax the age for appearing in General Competitive Examination conducted by Bihar Public Service Commission for filling up the vacancies of class-III post upto the age of 60 years.
 7. They will be able to avail three such examinations to make them eligible for appointment. This decisions has been communicated by the Personnel and Administrative Reforms Department who are incharge of the recruitment to the Government employment to Bihar Public Service Commission by letter no.3918 dated 11.4.1998. That the letter no.3918 dated 11.4.1998 is annexed herewith and marked as Annexure-A to this Affidavit.
 8. That the paid managers who do not qualify for recruitment in Government Employment in accordance with law their service as paid managers, will continue on same terms and conditions as is now prevailing, the same will be the fate of the paid managers who failed in all three examination referred to above.
 9. That the recommendation referred to in the paragraph 38 of the Division Bench Judgment finds place at page 83 of the S.L.P. paper book. The alleged decision of the Chief Minister referred to in this letter dated 6.9.1986 (page 83 of the S.L.P. paper book) is in reality in a negotiation and discussion with the union of the paid managers, and

English translation of the Minutes of Discussion is annexed herewith and marked as Annexure-B to this Affidavit.

10. That the list of the paid managers which was forwarded on 6.9.1986 for adjustment (recruitment) as per rules of the Government are annexed herewith and marked as Annexure-C to this Affidavit.

11. That in short the Government is agreeable to give effect to this suggestion contained in the order dated 4.3.1998 passed by this Hon'ble Court."

The Supreme Court accepted the assertions of government and passed the final order. One of the assertions made by the Cooperation Department which was accepted by the Supreme Court was in para 8 of the Affidavit which states as under:

8. "That the paid managers who do not qualify for recruitment in Government Employment in accordance with law their service as paid managers, will continue on same terms and conditions as is now prevailing, the same will be the fate of the paid managers who failed in all three examinations referred to above."

This assertion of the Cooperative Department having been accepted by the Supreme Court means that all paid managers were to be given three chances to compete for getting a regular government job but a safeguard was created for those who would fail in all the three attempts. Such managers who could not get absorbed in accordance with the scheme approved by the Supreme Court had to be paid their salaries as they were being paid on August 20, 1998.

The respondents did not dispute that on August 20, 1998 the Government was taking the burden of salary of the managers. An order to the contrary was issued subsequently. In view of these facts the Government is bound to pay salary to the petitioners in accordance with the undertaking given before the Supreme Court which became basis for the directions of the

Supreme Court dated August 20, 1998. If the Government wanted to get an escape from this order, they had to approach the Supreme Court.

Since under directions Supreme Court government is bound to pay the salaries of petitioners and the Commission is bound by Article 144 of Constitution of India to see that orders of Supreme Court are followed, the Commission directs payment of unpaid salaries and other benefits within eight weeks.

Copy of this order be given to the petitioners and the Principal Secretary / Registrar, Department of Cooperation.

(Justice Bilal Nazki)
Chairperson