

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8034 of 2014

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Bishwanath Sharma son of Late Parmanand Sharma, R/o village Andhara
P.O. Ahdari, P.S. Chauri district Bhojpur

.... Petitioner/s

Versus

The Chief Managing Director South Bihar Power Distribution Holding
Company Limited & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 30-01-2015

Heard counsel for the petitioner and the respondents.

In this case, petitioner is challenging the order contained in 260 dated 28th March 2014 which has been communicated by the Deputy General Manager (Administration) South Bihar Power Distribution Company Limited, Patna. To-day the original file has been placed before this Court which shows that the communication has been made after the decision of the Managing Director of the Company.

The short facts of the case is that by the impugned order pension of the petitioner has been forfeited upto 90 per cent on the ground that he has been convicted in a criminal case.

On reading of the impugned order it appears that the power has been exercised under Rule 43(b) of Bihar Pension Rule. Counsel for the petitioner submits that the petitioner has

superannuated much earlier, his pension cannot be curtailed under Rule 43(b) of the Rules for act of future misconduct.

There is a provision under Rule 43(a) of the Rules which empowers the Board that if an employee either in a criminal proceeding or departmental enquiry is found guilty of grave misconduct for future conduct, the Government will have power to withdraw the pension either as a whole or part of pension.

In the present case, applying the principle of mutatis mutandis in the case of employees of the State Government for curtailment of pension power lies with the Government and in South Bihar Power Distribution Holding Company Limited power lies with the Board of Directors, not with the Managing Director which is not the supreme body.

In such view of the matter, this Court directs the Board of Directors to take the final decision in the matter and on this technical ground, the order contained in Memo No. 260 dated 28th March 2014 is hereby quashed with the liberty to the competent authority to pass appropriate order in accordance with law.

With this observation, this petition is allowed.

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(Shivaji Pandey, J)