

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14057 of 2006

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Shiopujan Baitha S/o Late Morha Baitha, Resident of
Mohalla- Adarsh Colony, West Patel Nagar, Post
Office- Shastri Nagar, Police Station- Shastri
Nagar, District - Patna.

..... **Petitioner**

Versus

1. The State of Bihar through the Chief Secretary,
Govt. of Bihar, Patna.
2. The Agriculture Production Commissioner, Bihar,
Patna, New Secretariat, Vikas Bhawan, Patna-15.
3. The Special Secretary, Department of
Agriculture, Bihar, Patna.
4. The Joint Director Input, Department of
Agriculture, Bihar, Patna, New Secretariat,
Vikas Bhawan, Patna-15.
5. The Assistant Research Officer, Department of
Agriculture, Bihar, Patna, New Secretariat,
Vikas Bhawan, Patna-15.
6. Public Information Officer, Department of
Agriculture, Bihar, Patna.

..... **Respondents**

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Appearance :

For the Petitioner/s: Mr. Ajeet Kumar, Adv.
For the Respondent/s: Mr. J.P. Karn, (A.A.G.-4)
AC to A.A.G.-4

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

8. 20-04-2015 Heard Sri Ajeet Kumar, learned counsel
for the petitioner and Sri J. P. Karn, learned
Addl. Advocate General - 4.

The petitioner, who retired as
Director, Project, Planning & Monitoring from
Agriculture Department on 31-03-2003, has
approached this Court by filing the present writ
petition under Article 226 of the Constitution
of India with a prayer to set aside an order,

which is contained in Memo No. 982 dated 5th July, 2006, whereby the Govt. of Bihar has decided to deduct 10% from the pension of the petitioner on certain allegation which pertains to period in between 1994 to 1998.

It has been argued that though the deduction order has been passed in purported exercise of power under Rule 139 of the Bihar Pension Rules, the government has not followed any procedure prescribed in the pension rules nor any notice was issued to the petitioner to explain regarding the charges. Before the retirement no departmental proceeding was pending against the petitioner nor it was a case under rule 43(b) of the Bihar Pension Rules. It was argued that only provision i.e. Rule 139(c) of the Bihar Pension Rules authorizes the government to take a decision for deducting pension, even after retirement but that is to be done within a period of three years from the date of issuance of authorization of pension. It has been emphatically argued that deduction order was passed much after three years of issuance of authorization of pension.



Sri J.P.Karn, learned Addl. Advocate General - 4 fairly accepts that the punishment order has been issued after the expiry of three years. He further submits that full pension was authorized to the petitioner, more than three years, prior to passing of the order i.e. **Annexure '20'** to the writ petition.

Ofcourse, in this case, a very exhaustive writ petition was filed and detailed counter affidavit has also been filed, fact remains that the proposition i.e. the provision contained in Rule 139 of the Bihar Pension Rules is not in dispute and it is admitted case that such rule has been violated.

At this juncture, it would be appropriate to quote the provision contained in Rule 139(c) of the Bihar Pension Rules, which is as follows:-

"139(c) - The State Government reserve to themselves the powers of revising an order relating to pension passed by subordinate authorities under their control, if they are satisfied that the service of the pensioner was not thoroughly satisfactory or that there was proof of grave misconduct on his part while in service. No such power shall however, be exercised without giving the pensioner concerned a reasonable opportunity of showing cause against the action proposed to

be taken in regard to his pension, nor any such power shall be exercised after the expiry of three years from the date of the order sanctioning the pension was first passed."

In view of the admitted facts as well as provision referred here-in-above, there is no reason to allow the order impugned to continue.

Accordingly, order contained in Memo No. 982 dated 5th July, 2006 i.e. **Annexure '20'** to the writ petition is, hereby, set aside.

The writ petition stands allowed.

(Rakesh Kumar, J.)

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