

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9306 of 2011

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Mahendra Roy, aged about 69 years, son of Late Basudeo Roy,
resident of village – Porar, P.O. – Marai, P.S. – Jhandaha,
District – Vaishali (Bihar)

.... Petitioner

Versus

1. The Bihar State Electricity Board, through its Chairman,
Vidyut Bhawan, Bailey Road, Patna.
2. Chairman, Bihar State Electricity Board, Vidyut Bhawan,
Bailey Road, Patna.
3. Secretary, Bihar State Electricity Board, Vidyut Bhawan,
Bailey Road, Patna.
4. Financial Controller (I), Bihar State Electricity Board,
Vidyut Bhawan, Bailey Road, Patna.
5. Joint Secretary, Bihar State Electricity Board, Vidyut
Bhawan, Bailey Road, Patna.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

7 27-03-2015 Heard learned counsel for the petitioner and

learned counsel for the Electricity Board.

The petitioner retired from services of the Bihar

State Electricity Board, and at that time, there were no

departmental proceedings either in contemplation or

having been initiated against him. Upon retirement, he was



sanctioned full pension and gratuity. Two years later, a notice was issued to him in regard to certain incidents which took place six years back i.e. four years prior to his superannuation and based upon that, steps were to be taken to restrict his pensionary benefits. Petitioner replied and pursuant thereof, an order was passed restricting his pensionary benefit by 5%. This is the challenge before this Court.

Having heard learned counsel for the petitioner and learned counsel for the Bihar State Electricity Board, the first thing remains undisputed is that neither was there a departmental proceeding in contemplation nor started against the petitioner prior to his superannuation. Even after superannuation, no proceedings in terms of Rule 43(b) of Bihar Pension Rules, as adopted by the Board, was ever said to be initiated. Thus, there was no duly constituted departmental proceedings ever initiated yet, orders restricting pension was passed. In my view, this cannot be a case under Rule 139 which talks of thoroughly unsatisfactory service. It can mean and it means a finding of thoroughly unsatisfactory service pursuant to a duly constituted proceedings. It is not the whims and fancies of

an officer. Therefore, in order to restrict and/or reduce the pension, there should be a disciplinary proceedings either pre-retiral or post retiral, in absence whereof the pensionary benefit which is a thing under which an employee earns in regard of his service cannot be denied. Thus, the order restricting pension in respect of the petitioner cannot be sustained. It is quashed.

It is, accordingly, directed that petitioner would be entitled for the full pension and any recovery has to be forthwith refunded to the petitioner. The writ petition is allowed.

(Navaniti Prasad Singh, J.)

Rajeev/-

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