

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18186 of 2008

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Jageshwar Prasad Chourwar, son of Late Sonai Chourwar, resident of
village- Belni Bhawanipur, Police Station-Loukahi, District-Madhubani

.... Petitioner

-Versus

1. The State of Bihar through the Principal Secretary, Agriculture
Department, Bihar, Patna
2. The accountant General, Bihar, Birchand Patel Marg, Patna
3. Director, Agriculture, Govt. of Bihar, New Secretariat Building, Patna
4. Director (Administration), Agriculture, Govt. of Bihar, New Secretariat
Building, Patna
5. The Deputy Director, Agriculture (Potato), Bihar, Mithapur, Patna
6. District Agriculture Officer, Madhubani, District-Madhubani

.... Respondents

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Appearance :

For the Petitioner/s : Mr. M.Chatterjee

For the Respondent/s : Mr. SC-26

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 27-03-2017 Heard Ms. Mahasweta Chatterjee, learned counsel
for the petitioner and Sri Manoj Kumar Ambastha, learned SC-27.

The petitioner, who superannuated with effect from
31.01.2004 as Assistant Seed Certification Officer, has
approached this Court, invoking its writ jurisdiction under Article-
226 of the Constitution of India, with a prayer to quash an order,
contained in Memo No.2040 dated 29.03.2008 (Annexure-9 to the
writ petition) issued under the signature of the Director
(Respondent no.4). By the said order, pension of the petitioner was
reduced for about 2 % in exercise of power under Rule 139 of the
Bihar Pension Rules.

Short fact of the case is that after superannuation of



the petitioner, on a complaint, the matter was investigated under the Bihar Lokayukta Act. During investigation, as reported vide Annexure-6 to the writ petition, though some charges against the petitioner were found correct, it was indicated that since the petitioner had already superannuated, any recommendation against the petitioner would be a futile exercise. After the said communication was made from the office of the Lokayukta vide letter dated 06.10.2005, the petitioner was noticed by the Agriculture Director to explain and finally the impugned order has been passed and pension has been directed to be reduced vide order contained in Memo No. 2040 dated 29.03.2008(Annexure-9), which has been assailed in the present writ petition.

Of course, in the writ petition, number of grounds were taken for setting aside the impugned order, at the time of argument, learned counsel for the petitioner has confined her prayer to assail the order on the ground that the order impugned is hit by the provision of Sub Rule (C) of Rule 139 of the Bihar Pension Rules. It was submitted by learned counsel for the petitioner that besides several other illegality, the order impugned is liable to be set aside on the ground that that the said impugned order was issued much after three years from the date of issuance of sanction order in respect of retiral dues of the petitioner and, as



such, the order impugned is liable to be set aside.

Sri Manoj Kumar Ambastha, learned SC-26 after examining Rule 139 (C)f the Bihar Pension Rules, the impugned order as well as sanction order, was not in a position to dispute the fact that the order impugned was passed beyond three years and it was in violation of Rule 139(C) of the Bihar Pension Rules.

In view of facts and circumstances, particularly the fact that the order impugned is contrary to the statutory provision, same is liable to be set aside. Accordingly, the order contained in Memo No.2040 dated 29.03.2008 (Annexure-9 to the writ petition) is hereby set aside. The writ petition is allowed with all consequential benefits.

(Rakesh Kumar, J)

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