

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18601 of 2014

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Sudhir Mandal, Son of Sri Mandal, Resident of Mohalla-Shivpuri, Ward No. 9, P.S.-Araria, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Purnea Division, Purnea.
3. The Collector-cum-District Magistrate, Araria, District-Araria.
4. The Conducting Officer-cum-In charge, Mid Day Meal Scheme, Araria.
5. The District Land Acquisition Officer-cum-Competent Officer, Araria, District-Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amar Nath Singh, Advocate Mr. Kamal Kishore Singh, Advocate
For the Respondent/s	:	Mr. Sunil Kr. Mandal, SC-3 Mr. Arjun Mandal, AC to SC-3 Mrs. Neelam Kumari, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 20-05-2019

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is challenging the order contained in Memo No.1665 dated 16.09.2014 whereby and whereunder the Collector-cum-District Magistrate, Araria in exercise of power under Rule 43 (b) read with Rule 14 (XI) of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 passed an order of dismissal of the petitioner.



The impugned order is *per se* illegal on account of the fact that after superannuation, the relationship of master and servant was not in existence and, on that account, the proceeding has been converted under Rule 43 (b) of Bihar Pension Rules. In that proceeding, the Authority has not been empowered to pass a substantive order in the nature mentioned in the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. They can pass an order in terms of Rule 43 (b) of Bihar Pension Rules not in terms of CCA Rules, 2005 on account of non-existence of relationship of master and servant.

In such view of the matter, without looking into the merit of the case, the order contained in Memo No.1665 dated 16.09.2014 is set aside and the matter is remanded back to the Collector-cum-District Magistrate, Araria, who will be obliged to take decision in terms of Rule 43 (b) of Bihar Pension Rules after examining all the materials relating to the present case.

With the aforesaid observations and directions, this application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	22.05.2019
Transmission Date	N.A.

