

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8251 of 2006

=====

Harindra Sharma Son of late Kapildeo Sharma resident of Panch Bati Road
No. 8A(Changar Road) Ashok Nagar, PO Lohiyanagar PS Kankarbagh Dist.
Patna

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Gautam
For the Respondent/s : None

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 20-09-2019

Heard counsel for the petitioner. No one appears for
the respondents-State.

Petitioner who retired as under Secretary in the Road
Construction Department on 31.10.1995 has filed the instant case
challenging the order for withholding 10% pension for ten years.
Order has been passed in a proceeding under rule 43(b) of Bihar
Pension Rules and is dated 10.03.2006.

Counsel for the petitioner submits that order of
punishment is unsustainable in view of provision contained under
rule 139(c) of Bihar Pension Rules.

It is submitted that the State Government is only
competent to review the order relating to pension in the event
services of the pensioner are not satisfactory or where there is
proof of misconduct during service, however the same could not



have been exercised beyond three years from the date of sanction of pension.

In the instant case, since pension had been sanctioned in favour of the petitioner on 28.02.1996 itself, therefore, after February, 1999 no such order could have been passed adversely affecting petitioner's pensionary' right. The order impugned in the instant proceeding is based on initiation of proceedings under rule 43(b) Bihar Pension Rules on 24.03.1999 which was later modified by Annexure 8 which is dated 01.06.1999. Instant case is one where order directing for withholding 10% pension for ten years has been issued under procedure and power prescribed under rule 43(b) of Bihar Pension Rules.

In view of retirement of the petitioner on 31.10.1995 and having regard to the fact that proceedings under the proviso to rule 43(b) of Bihar Pension Rules has been initiated on 23.09.1999 in respect of misconduct allegedly committed in 1994-95, this court would observe that authorities were fully justified in resorting to the procedure the action which has been initiated on 23.09.1999 is in respect of alleged allegation pertaining to the year 1994-95 i.e. within the four years limitation under the rule.

In the circumstance, this court does not find any infirmity in the action initiated under rule 43(b) of Bihar Pension



Rules. Rule 139(c) of Bihar Pension Rules and three years bar contained therein is not applicable in the instant case as in the instant case the procedural and power under rule 43(b) of Bihar Pension Rules has been exercised.

Submission of petitioner's counsel is that order directing for withholding 10% pension for ten years dated 10.03.2006 is not unsustainable as being violative of rule 139(c) of Bihar Pension Rules is therefore not correct in the facts and circumstances of the case.

Order of 2006 had lost its effect of withholding of pension for ten years in the year 2016 itself. The effect of punishment has also lapsed long back.

Writ petition does not require any interference and accordingly, the same is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2019
Transmission Date	NA

