

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6530 of 2015

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Shri Krishna Kanhaiya Jha S/O Late Suresh Jha, Retd. the then Executive Engineer Mechanical, Tube Well Division, Madhepura, Present Address at Sanjay Gandhi Nagar, Ram Janki Path, North of Kali Mandir, Kankarbagh, P.S. - Patrakaar Nagar, Dist Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Minor Water Resources Department Govt of Bihar
2. The Departmental Inquiry Commissioner, General Administration Department, Govt.of Bihar. Secretariat Patna.
3. The Secretary, Water Resource Department-cum- Addl. Departmental Inquiry Commissioner, Bihar, Patna
4. The Executive Engineer, Minor Irrigation Division, Madhepura, Govt. of Bihar at Madhepura.
5. Addl. Secretary, Minor Water Resources Department, Govt. of Bihar.
6. Principal Secretary, General Administration Department, Govt. of Bihar, Old Secretariat.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Anshuman, Advocate
For the State	:	Mr.Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-03-2019

The short and specific point raised by the petitioner's counsel is that the proceedings initiated against the petitioner under letter dated 30.12.2014 and resolution of the government dated 27.03.2015 are not maintainable as the same are time barred in view of the provisions contained in Rule 43 (b) of the Bihar Pension Rules.

Counsel for the respondent State has submitted that if the petitioner would have raised the objection regarding maintainability of the proceedings the issue could have been



considered by the authority himself. He has rushed this Court directly without submitting his objection regarding maintainability before the Additional Secretary respondent no. 5 under whose signature the letter dated 30.12.2014 and resolution dated 27.03.2015 have been issued. The issue is one of maintainability and can be well considered by the Additional Secretary respondent no. 5 having regard to the provisions of the Bihar Pension Rules, provided the petitioner makes an application in this respect before the respondent no. 5.

Counsel for the petitioner submits that he will be making a comprehensive representation on the point of maintainability of the proceedings before the respondent no. 5. In the event such an application is made, the respondent no. 5 would be obliged to decide the issue of maintainability of the proceedings by a reasoned and speaking order in accordance with law. The respondent no. 5 should not proceed further against the petitioner till such time the issue of maintainability is decided.

Counsel for the petitioner submits that he would be filing his comprehensive representation within four weeks. In the event the same is done the respondent no. 5 would be obliged to consider the claim of the petitioner expeditiously and without any undue delay.



Writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

