

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 421 of 2017
Arising out of
Civil Writ Jurisdiction Case No. 5857 of 2014

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Bhubaneshwar Prasad Singh, Son of Late Yogendra Prasad Singh, resident of Village - Rasalpur, Post office - Rasalpur, Police Station - Patory (Mohanpur OP), District – Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Smt. Sujata Chaturvedi, Department of Transport Government of Bihar, Patna.
2. Sri Ram Kishore Mishra, Posted as State Transport Commissioner, Government of Bihar, Patna.
3. The Bihar State Cooperative Marketing Union BISCOMAUN through Sri Surya Deo Mehta the Present Managing Director, having Office at Biscomaun Bhawan, West Gandhi Maidan, Patna-800001.
4. Surya Deo Mehta, Son of not Known to the Petitioner, presently, the Managing Director, Biscomaun Bhawan, West Gandhi Maidan, Patna-800001.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Advocate
For the State	:	Mr. Ajay Kumar Rastogi, AAG 10
For the Biscomaun	:	Mr. Vikas Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 23-07-2019

Heard learned counsel for the petitioner and learned AAG 10 for the State.

2. After some arguments, the Court finds that the order passed in CWJC No. 5857 of 2014 dated 26.10.2016, stands complied with as the Principal Secretary, Transport has made some payment and the authorities having initiated proceeding during the service period of the petitioner have converted the same under Section 43(b) of The Bihar Pension Rules, 1950 and by final order full pension has been stopped.



3. Be that as it may, since there was no specific bar to the authorities in this regard and only the order passed by the Managing Director, Biscomaun had been set aside holding it to be *void ab initio* and also the Court expressly indicating that it was the Secretary, Department of Transport, who alone could have passed the order, the Court does not find that there is any violation of the order of the writ Court dated 26.10.2016 passed in CWJC No. 5857 of 2014.

4. At this stage, learned counsel for the petitioner submitted that he may be given liberty to assail the order passed against him in such departmental proceeding.

5. In view thereof, the application stands disposed off with liberty aforesaid.

6. It shall be open to the petitioner to assail the order passed against him in the departmental proceeding and the punishment awarded before the appropriate forum, in accordance with law.

(Ahsanuddin Amanullah, J.)

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