

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5819 of 2019

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Afjal Miya @ Afajal Miya, S/o Late Ali Hassan Miya, resident of Village-
Kushar, P.O.- Jhajhaba Bazar, P.S.- Mahamadpur, Distt.- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj
2. The District Magistrate, Gopalganj
3. The Superintendent of Police, Gopalganj
4. The Circle Officer, Bakunthpur, P.O.- Bakunthpur, P.s.- Baikunthpur, Distt.-
Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (GP-5)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 09-04-2021 Heard learned counsel for the petitioner and the
respondents.

The only issue involved in the present writ application
is whether a person can be dismissed from service after attaining
the age of superannuation. Answer is NO.

Learned counsel for the petitioner submits that the
petitioner was issued Memo of charge on 17.02.2017 on certain
lapses. He further submits that the petitioner attained the age of
superannuation on 31.03.2017. After attaining the age of
superannuation, the Circle Officer, Baikunthpur issued letter no.
490 dated 19.05.2017 to Incharge Officer, District General
Administration Cell, Gopalganj enclosing Prapatra (Ka) and



thereafter the Enquiry Officer-cum-S.D.O., Gopalganj issued Memo no. 2659 dated 26.08.2017 to Presenting Officer-cum-Circle Officer, Baikunthpur for evidence in Departmental proceeding. The District Magistrate, Gopalganj issued Memo No. 1191 dated 30.10.2017 revoking suspension of the petitioner w.e.f. 31.03.2017. The District Magistrate, Gopalganj in purported exercise of power under Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 passed order of dismissal of the petitioner, which was communicated to the petitioner vide Memo No. 142 dated 30.01.2019.

It is noted here that the petitioner attained the age of superannuation on 31.03.2017. Once the petitioner superannuated on 31.03.2017, the relationship of master and servant came to an end. Thereafter under the provisions of the Bihar Pension Rules only, the respondents can exercise jurisdiction and take appropriate action against the petitioner for his lapses while he was in job, but the respondents are not authorized to pass order of dismissal with retrospective effect after the age of superannuation.

In view of the above, the order as contained Memo No. 142 dated 30.01.2019 (Annexure-8) cannot sustain and it is, accordingly, quashed.



However, if the law permits, the respondents may take appropriate decision under Section 43(b) of the Bihar Pension Rules.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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