

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1294 of 2021

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Vinayak Pandey Son of Late Vrihaspati Pandey, Resident of Village - Dalippur, P.S.- Dhangai, District - Bhojpur. At present - Ward No. 32, Gajadhar Ganj, Babhani, Buxar, P.S. - Mufassil, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Director Administration-Cum-Additional Secretary, Education Department, Bihar, Patna.
3. The Deputy Secretary-Cum-Inquiry Officer, Education Department, Bihar, Patna.
4. The District Programme Officer-Cum-Presenting Officer (Establishment), Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kundan Kumar
For the Respondent/s : Mr.Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 30-06-2021 Heard learned counsel for the petitioner and the

counsel appearing on behalf of the respondents.

2. Petitioner has approached this Court for setting aside the memo of charge dated 14.4.2019. The petitioner retired on 30.4.2017. After retirement, the respondents have decided to initiate proceeding in purported exercise of power under proviso of Rule 43 (B) of the Bihar Pension Rules and in the proceeding they have decided to forfeit 100% pension of the petitioner vide Annexure-17 dated 31.8.2020.

3. Learned counsel appearing on behalf of the



petitioner would submit that after retirement of the petitioner, the respondents have initiated proceeding under under proviso of Rule 43 (B) of the Bihar Pension Rules but the Rules prohibits the respondents for proceeding ahead with regard to any lapses which is four years anterior to the date of retirement. According to the petitioner, the lapses of 2008 and 2012 which is subject mater of the proceeding under Rule 43(B) is barred by the limitation prescribed under Provision of Rule 43(B) of the Bihar Pension Rules as is for more than four years anterior to the date of superannuation. Admittedly, the memo of charge was framed after retirement of the petitioner and such proviso of Rule 43 (B) of the Bihar Pension Rules is attracted in the present case.

4. Considering the statutory restriction of taking cognizance of the lapses which is more than four years anterior to the date of retirement of the petitioner, the Court is constrained to allow the writ application, quashed Annexure-17 dated 29.8.2020. However, the quashing of Annexure-17 will not preclude the respondents to proceed against the petitioner for the lapses other than the charges related to the event of 2008 and 2012 and shall pass fresh order against the petitioner, initiating fresh proceeding under Rule 43(B) strictly in



accordance with the provisions of Bihar Pension Rules and proviso thereto.

5. Annexure-17 is quashed.

6. The respondents are directed to take fresh decision on the basis of inquiry report excluding the report with regard to charge no.1 and 2.

7. Fresh decision in this regard must be taken by the respondents within a period of three months from the date of receipt/production of a copy of this order

8. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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