

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21659 of 2019

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Md. Salahuddin Khan Son of Late Md. Qutubuddin Khan, Resident of Rose Apartment, G-2, Bhikhna Pahari, P.O. Mahendru, P.S.-Pirbahore, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
4. The District Magistrate, Gopalganj, District-Gopalganj.
5. The Under Secretary, General Administration Department, Government of Bihar, Patna.
6. The Bihar Public Service Commission through its Chairman, Jawaharlal Nehru Marg, Bihar, Patna.
7. The Chairman, Bihar Public Service Commission, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate
	:	Mr.Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	Mr.Manish Kumar, GP 4
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate
	:	Mr. Nishant Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 18-11-2021

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

In the instant petition, petitioner has prayed for following relief/reliefs:



“A) For issuing writ of certiorari and thereby quashing the resolution dated 08.03.2019 bearing Resolution No.3247 whereby and whereunder the respondent State by invoking Rule 43(B) of Bihar Pension Rules has forfeited 5 % pension of the petitioner for five years.

B) For issuing writ of certiorari and thereby quashing the resolution dated 27.06.2019 bearing Resolution No.8598 whereby and whereunder the respondent State by has rejected the review petition filed by the petitioner and has affirmed its earlier stands of 5% of forfeiture of pension for period of five years.

C) For issuing writ of mandamus granting all consequential benefit including payment of full pension, full gratuity, entire earned leave to the petitioner.

D) For holding that the impugned resolution dated 27.06.2014 and 08.03.2019 issued by the respondent State through General Administration Department are bad in law as they have been issued despite there being no reasons for differing with the enquiry report.

E) For awarding suitable compensation to the petitioner who has been harassed by the respondents by issuing illegal resolutions/orders dated 08.03.2019 & 27.06.2019 which have been issued without any rationale and reasonable basis for issuing the same.

F) The Hon'ble Court may pass any other order/orders which it may deem fit in the facts and circumstances of the case and within the ends of equity, justice and good conscience.”

The petitioner has attained age of superannuation and retired from service before imposition of penalty of reducing 5 % of the pension for a period of five years. The alleged fact was stated to have not been proved in a disciplinary proceedings by the Enquiring Officer.



The disciplinary authority disagreed with the Enquiring Officer's report and issued show cause notice asking the petitioner's explanation from the defective stage.

The petitioner submitted his reply to the show cause notice on 20.12.2017 (Annexure P-15) in which he has raised various contentions. On receipt of the petitioner's explanation to the show cause notice the disciplinary authority proceeded to impose penalty of withholding of 5 % of the pension for a period of five years without considering each of the contention raised in the explanation to the show cause notice. Therefore, one has to draw inference that there is non application of mind in passing the impugned order of penalty dated 08.03.2019.

Accordingly, order dated 08.03.2019 is set aside reserving liberty to the disciplinary authority to pass a speaking order afresh after due consideration of each of the contention raised in the explanation dated 20.12.2017. The aforesaid exercise shall be completed within a period of three months from the date of receipt of this order.

With the above observation, the writ petition stands disposed of.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

