

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4162 of 2025

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Khaja Wahidur Rahman Son of Late Abdul Hamid Resident of Nasirganj
Purab Tola, Katihar, P.S.-Town, District-Katihar. Petitioner/s

Versus

1. The State of Bihar through the Director, Primary Education, Government of Bihar, Patna.
2. The District Education Officer, Katihar.
3. The District Programme Officer (Establishment), Katihar.
4. The Principal Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Singh, Advocate
For the Respondent/s : Mr. Standing Counsel (16)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 30-10-2025 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner has filed the present application for quashing the order of pay fixation dated 06.08.2022 passed by the Respondent No. 3, as well as the consequential Memo No. 3111 dated 17.12.2022, whereby recovery has been ordered from the post-retirement benefits of the petitioner. The petitioner has further sought for consequential re-fixation of pension along with the admissible benefits.

3. Learned counsel for the petitioner submits that in the case of a similarly situated person, namely *Md. Sahabuddin*, this Court has quashed a similar order and



directed the respondents to revise the pension to its original amount based on the last pay certificate issued at the time of superannuation. It is submitted that pursuant to the interim order passed in that case, no recovery was made, and if any recovery had been effected, the same was directed to be refunded forthwith.

4. It is next submitted that the impugned order, as contained in *Annexure-9*, issued under the signature of the District Programme Officer (Establishment), Katihar, has been passed without resorting to the mandatory provisions prescribed under Rule 43(B) of the Bihar Pension Rules. The authority has straightaway invoked Rule 139(C), which is contrary to the settled principles of law.

5. On the other hand, learned counsel for the State, by referring to the counter affidavit, submits that there is nothing on record to show that any proceedings under Rules 43(B) and 139(C) were ever initiated against the petitioner. He, however, does not dispute the factual position of the averments made by the petitioner. He further accepts the legal position and submits that the case of the petitioner is squarely covered by the judgment passed by this Court in *CWJC No. 2913 of 2019*, vide



order dated 22.09.2025. It is also submitted that there has been delay in approaching this Court for the relief sought.

6. This Court finds that the objection with regard to maintainability of the writ petition cannot be sustained in view of the fact that, in a financial matter, the petitioner has a recurring cause of action. Accordingly, the objection is found to be untenable and is rejected.

7. Considering the aforesaid facts and circumstances and also violation of principles of natural justice made while passing impugned order, this writ petition is allowed by setting aside the impugned orders contained in Annexures-8 and 9 which has been passed without resorting to the procedure laid down under Rule 43(3) and 139(c) of the Bihar Pension Rules. The authorities concerned are directed to take a final decision with regard to the claim of the petitioner and to refund the entire amount recovered pursuant to *Annexure-9* forthwith.

8. The authorities are further directed to revise the pension of the petitioner to its original amount based on the last pay certificate issued at the time of his superannuation, within a period of six weeks from the



date of communication of this order.

(Ajit Kumar, J)

Prakash/-

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