

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13238 of 2024

Dr. Dharmendra Singh @ Dr. Dharmendra Sinha, Son of Late Raghunath Singh @ Raghunath Sinha, resident of 26/02, Dinkar Nagar, Madhauliya, Khetal, Police Station-Kazi Mohammadpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fishery Resources Department, Government of Bihar, Patna.
2. The Deputy Secretary, Animal and Fishery Resources Department, Government of Bihar, Patna.
3. The Accountant General Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv. Mr. Upendra Mishra, Adv. Mr. Bhaskar Sandilya, Adv. Mr. Ravi Kumar, Adv.
For the Respondent/s	:	Mr. Raghwanand, GA-11 Mr. Pratik Kumar, AC to GA-11
For the A.G.	:	Mr. C. Swaroop, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-07-2025

Heard the parties.

2. The petitioner has invoked the extra-ordinary jurisdiction of this Court seeking a direction upon the concerned respondents to ensure payment of full pension with effect from 01.01.2018 till the date he inflicted with the punishment of withholding of 50% of pension i.e. 24.01.2019 and further to make 50% pension from 25.01.2019 to 24.10.2021, which has not been paid till date without any justifiable reason, apart from other retiral benefits and dues as admissible under the law.



3. The only point for consideration before this Court is with regard to the entitlement of the retiral benefits and other dues of the petitioner, as has been claimed before this Court.

4. The facts as culled out from the materials available on record reveal that while the petitioner was discharging his duty on the post of Special Deputy Director, Virahat Pashu Vikas Paryojana, Patna, in the mean while, he was subjected to a departmental proceeding, which came to initiated on 30.12.2014. While the departmental proceeding was going on, in the mean while the petitioner superannuated on attaining the age of superannuation on 31.12.2017. In view of the aforesaid facts, the on-going departmental proceeding converted under Rule 43(b) of the Bihar Pension Rules, 1950.

5. Notwithstanding the superannuation of the petitioner, he has not been allowed any retiral benefit and finally the departmental proceeding culminated with the punishment of withholding of 50% of pension permanently vide Memo No. 40, dated 24.01.2019 (Annexure-1). It is further contended that surprisingly 50% of pension in favour of the petitioner has been sanctioned after a delay of more than two years on 25.10.2021 but finally, the petitioner started getting pension with effect from 07.03.2023, without there being any justifiable reason in



causing such delay.

6. Learned Advocate for the petitioner has further informed to this Court that the order of punishment is put to challenge by filing a separate writ petition bearing No. C.W.J.C. No. 12175 of 2019 which is pending consideration before a Bench of this Court. Contending the aforesaid facts, he further submits that this is the admitted position, while the petitioner superannuated, he was facing a departmental proceeding and, as such, Rule 43(c) will come into picture, which clearly stipulates that where departmental enquiry or judicial proceeding in which the prosecution has been sanctioned against such servant initiated during the service period of the Government servant is not concluded, till the retirement of the Government servant, the amount of provisional pension shall be less than maximum admissible amount of pension, but shall, in no case, be less than 90%. On the strength of the aforesaid prescription, he submits that in any circumstances the petitioner was entitled to get 90% of provisional pension, which includes gratuity with effect from the date of his retirement, till the date the punishment was inflicted upon the petitioner. Further denial of 50% of pension from 25.01.2019 till 24.10.2021 is also arbitrary and not tenable in law as well as in fact.



7. The afore-noted contention of the petitioner has been refuted by Mr. Prateek Kumar, learned Advocate for the State. Taking this Court through the Rule 209 of the Bihar Pension Rules, 1950, he submits that since the petitioner has failed to furnish the pension papers and necessary documents, in absence of which the petitioner could not get the pension. There is a specific provision which obligates the employee to furnish appropriate application at the time of his retirement and all the more delay has occurred on the part of the petitioner; repeated letters and reminders have been given to the petitioner, however, the petitioner failed to submit appropriate application with the necessary documents. Finally, press communique was also made and an opinion has been sought for from the Finance Department and in the light of the opinion 50% pension started with effect from the date, when the petitioner submitted his application. However, he submits that it is the admitted position the petitioner has been inflicted with the punishment of withholding of 50% of the pension permanently and now 50% of pension has been sanctioned and the petitioner has been paid the same with effect from 07.03.2023.

8. Having heard the learned Advocate for the respective parties and after going through Rule 43(c) of the



Bihar Pension Rules, 1950 there is no iota of confusion with regard to the prescription which entitles an employee, who is facing departmental enquiry or judicial proceeding at the time of his superannuation, to get the amount of provisional pension, which shall not be less than 90%. The issue afore-noted has also been clarified by a Full Bench of this Court in the case of ***Arvind Kumar Singh vs. The State of Bihar & Ors.*** reported in ***2018 (2) PLJR 933*** which reads as follows:-

“We have no hesitation in holding that after coming into force of the amendment to the Pension Rules by incorporating Rule 43(c) on 19th of July, 2012, an employee who is facing departmental inquiry or judicial proceeding on the date of his superannuation would be entitled to provisional pension which would include gratuity to the tune of an amount not less than 90 per cent.”

9. So far the contention of the petitioner that the petitioner failed to submit appropriate application alongwith the necessary documents in terms with Rule 209 of the Bihar Pension Rules, 1950 is concerned, this Court is of the opinion that the said rule cannot disentitle the petitioner for his legitimate claim of retirement benefits and other dues, when the delay is sufficiently explained. Bare perusal of Rule 209 of Bihar Pension Rules, 1950, it is evident the very object of the rule is to prevent unnecessary delay in extending the pension



and thus obligation has been cast upon the employee to submit application but with the power to relax, when the delay is sufficiently explained. Admittedly the petitioner has been, all along, facing the departmental proceeding since 2014, and thus if certain application was required to be furnished by the petitioner, it may be communicated through the disciplinary authority, during the course of departmental proceeding itself. Such plea as has been taken by the respondents is not available to them, when no order or any letter has ever been served to him.

10. In view of the aforesaid settled legal and factual position, this Court finds that the action of the respondent authorities in withholding of provisional pension including gratuity till the punishment is inflicted, is unsustainable. The Court directs the respondent nos. 1 and 2 to ensure the payment of admissible provisional pension and gratuity, from the date of retirement of the petitioner till the date, punishment is inflicted upon him, and further 50% of pension with effect from the date of punishment i.e., 24.01.2019 till 25.10.2021, preferably within a period of 12 weeks from the date of receipt/production of a copy of this order.

11. The writ petition stands disposed off with the



aforesaid direction.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2025
Transmission Date	NA

