

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1378 of 2025

Shiv Nandan Singh S/o Jhingo Singh, R/o Village- Madhurapur, Near Middle School, Ward No- 15, P.S- Madhurapur, District- Begusarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar, Old Secretariat, Block-4, Behind Sinchai Bhawan, Patna-800015.
2. The Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar, Old Secretariat, Block-4, Behind Sinchai Bhawan, Patna-800015.
3. The Additional Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar, Old Secretariat, Block-4. Behind Sinchai Bhawan, Patna- 800015.
4. The Deputy Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar, Old Secretariat, Block-4, Behind Sinchai Bhawan, Patna-800015.
5. The Director, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar, Old Secretariat, Block-4, Behind Sinchai Bhawan, Patna-800015.
6. The Inquiry Officer-cum-Deputy Director Welfare, Kosi Division
7. The District Officer, Supaul.
8. The Accountant General Officer A and E, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Sr. Adv. Mr. Aditya Pandey, Adv. Ms. Sakshi Bhatnagar, Adv.
For the Respondent/s	:	Mr. Manoj Kumar Ambastha, SC 26 Mr. Santosh Kumar Mishra, AC to SC 26 Mr. Divit Vinod, AC to SC 26

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 08-01-2026 Heard learned counsel for the parties.

2. The writ petition has been filed for the following
relief:-

“1. That the Petitioner seeks to invoke the



extraordinary writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India for the following relief(s):-

A. For issuance of an appropriate writ(s)/Rule(s)/direction(s) in the nature of Certiorari for quashing the punishment order of the Disciplinary Authority issued by the Respondent No. 4, Deputy Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar vide order dated 25.05.2024 bearing Memo No. 2022-2493 dated 31.05.2024 whereby and whereunder Petitioner has been punished with 10 per cent pension deduction for the entire lifetime as under Rule 43(B) of the Bihar Pension Rules without any application of mind and without proving the misconduct of the petitioner.

B. For issuance of an appropriate writ(s)/Rule(s)/direction(s) in the nature of Certiorari for quashing the order of the Respondent No. 3, Additional Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Government of Bihar vide order dated 29.08.2024 bearing Memo No. 2022-4213 dated 30.08.2024 whereby and whereunder the review application of the Petitioner has been dismissed without considering the facts and circumstances of this case.

C. For issuance of a writ in the nature of mandamus directing the full payment of the retirement benefits to the Petitioner and all other consequential monetary benefits and promotions due to the Petitioner for the period of withholding of 10% of the retirement benefits of the Petitioner.



D. For passing such further or other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Learned counsel for the petitioner submits that the petitioner got retired from service on 31.01.2021 from the post of Executive Magistrate, Areraj, East Champaran and for an allegation dated 16.03.2018, the memo of charge was issued in the year 2022, which was duly signed by the Sub-Divisional Officer, Veerpur, as contained in Memo No. 827-2 dated 30.04.2022.

4. It has next been submitted that the allegation leveled against the petitioner is in no way connected with the petitioner as neither the *Jamabandi* in question was created by him nor any direction for ensuring possession was ever issued to the petitioner while he was in service. By referring to the allegations as leveled in the memo of charge (Annexure-P/5 Series), even the authorities before initiating the proceeding in question under Rule 43(b) of the Bihar Pension Rules, 1950, has not been able to show any pecuniary loss caused to the State Government, by the conduct of the petitioner to construe the same as gross misconduct for justifying the proceedings initiated against the petitioner, in which the impugned punishment order is said to have passed.



5. Learned counsel for the petitioner, by taking this Court to the scope of initiation of any departmental proceeding under Rule 43(b) of the Bihar Pension Rules submits that the allegation for which the departmental proceeding, which is said to have been initiated, relates to a period which is beyond four years and this issue has already been considered by this Court in various judgments relying upon the dictum of the Hon'ble Apex Court, rendered in the case of *State of Bihar and Others Vs. Mohd. Idris Ansari* reported in *1995 Supp (3) SCC 56*, wherein it has been categorically held that for an allegation causing pecuniary loss to the Government would fall within the ambit of gross misconduct after retirement, and the allegation for which the proceedings are sought to be initiated, should not be related to the period beyond four years, have only been brought within the scope of Rule 43(b) of the Bihar Pension Rules, 1950 and only in such cases, the proceeding under relevant Rules of the Bihar Pension Rule, can be undertaken but, from perusal of the memo of charge based, on which the enquiry in question, is said to have been initiated, consequent to which the impugned punishment order dated 31.05.2024, appended as Annexure -P/9 which is contained in Memo No. 2493, is said to have been passed, cannot be sanctioned in law and is wholly without



jurisdiction and furthermore, does not fall within the scope of the provisions under which the enquiry in question is said to have been initiated.

6. The relevant portion of the aforesaid judgment rendered by the Hon'ble Apex Court in the case of Mohd. Idris Ansari (supra) reads as follows:-

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cover any misconduct if committed within 4 years prior to 27.09.1993 meaning thereby it should have been committed during the period from 26.09.1989 upto 31.01.1993 when respondent retired. Only in case of such a misconduct, departmental proceedings could have been initiated against the respondent under Rule 43(b). In such proceedings, if he was found guilty of misconduct he could have been properly proceeded against under Rule 139(a) and (b). On the facts of the present case it must be held, agreeing with the High Court that the notice dated 27.09.1993 invoking powers under Rule 139(a) and (b) was issued wholly on the ground of alleged past misconduct and was not based on the ground that service record of the respondent was not thoroughly satisfactory. So far as that ground was concerned, on a conjoint reading of Rule 43(b) and Rule 139(a) there is no escape from the conclusion that as the alleged misconduct was committed by the respondent prior to 4 years from the date on which show cause notice dated 27.09.1993 was issued, the appellant authority had no power to invoke Rule 139(a) and (b) against the respondent on the ground of proved misconduct. Consequently, it had to be held that proceedings under Rule 139 were wholly incompetent. The High Court was equally justified in quashing the final order dated 13.12.1993 as there is no proof of such a misconduct. No question of remanding the proceedings under Rule 139(a) and (b) would survive as the alleged grave misconduct could not be established in any departmental proceedings after expiry of four years from 1986-87 as such proceedings would be clearly barred by Rule 43(b) proviso (a)(ii). Consequently the show cause notice dated 27.09.1993 will have to be



treated as stillborn and ineffective from its inception. Such a notice cannot be resorted to for supporting any fresh proceedings by way of remand. For all these reasons no case is made for our interference in this appeal. In the result appeal fails and is dismissed. There is no order as to costs.”

7. Considering the fact that the enquiry against the petitioner, which is said to have been initiated is not in respect to an event, which is within a period of four years rather it is beyond that and, in view of the dictum rendered by the Hon’ble Apex Court as well as of this Court rendered in the case of ***State of Bihar and Others Vs. Mohd. Idris Ansari (supra)***, this Court finds that the punishment order which is based on the memo of charge (Annexure-P/5), which reflects the allegations related to the period beyond four years, as such the same being not within the scope of Rule 43(b) of the Bihar Pension Rules, 1950 and, accordingly, the punishment order passed vide order dated 25.05.2024, which is contained in Memo No. 2022-2493 dated 31.05.2024, is set aside.

8. It is made clear that since the enquiry, in question, which is said to have been initiated against the petitioner including the impugned punishment, has been held to be without jurisdiction, and has already been set aside, as such, the petitioner is held entitled to full pension and other pensionary



benefits, which is required to be settled in favour of the petitioner, for which necessary orders shall be passed forthwith.

9. With the aforesaid observation and direction, the writ petition stands allowed.

(Ajit Kumar, J)

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