

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13989 of 2022

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Kaushal Kishore Verma son of Late Kameshwar Prasad, Resident of Road No. 8, Rajiv Nagar, P.S. Rajiv Nagar at and District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna.
3. The Chief Engineer, South Bihar (Yatayat), Upbhog, Public Works Department, Patna.
4. Superintending Engineer, Road Construction Circle, Magadh Pramandal, Department, Government of Bihar, Gaya.
5. The Executive Engineer, Road Construction Division - 1, Road Construction Department, Government of Bihar, Gaya.
6. The Provident Fund Officer-cum-Treasury Officer, Gaya.
7. The Accountant General (A and E), Bihar at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Rajiv Ranjan, Advocate Ms. Pratima Kumari, Advocate Ms. Priti Gupta, Advocate
For the Respondent	:	Mr. K. K. Singh, A.C. to G.P. 22
For the Accountant General	:	Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 18-02-2026

Heard the the parties.

I.A. No. 01 of 2025

2. The present Interlocutory Application has been filed for directing the respondent concerned to pay provisional pension to the petitioner during the pendency of the writ petition.



3. Learned counsel for the petitioner submits that now the present interlocutory application has become infructuous, therefore, he is not pressing the same. Accordingly, I.A. No. 01 of 2025 is dismissed as infructuous.

CWJC No. 13989 of 2022

4. The present writ petition has been filed for quashing the Office Order No. 67 dated 12.04.2021 issued under the signature of the Engineer-in-Chief, Road Construction Department, Government of Bihar, whereby the pension of the petitioner and salary for the period 07.10.2013 to 31.10.2019, i.e. till the date of retirement of the petitioner have been forfeited, in terms of Rule-43(b) of the Bihar Pension Rules, 1950 and further prayer has been made for commanding the respondents to pay the entire outstanding post-retiral dues and arrears of the salary to the petitioner.

5. The learned senior counsel for the petitioner submits that the petitioner after serving in the department, superannuated w.e.f. 31.10.2019 as a Junior Engineer, in the office of the Executive Engineer, Road Construction Division No.1., Road Construction Department, Government of Bihar, Gaya.

6. The learned senior counsel for the petitioner



further submits that earlier a departmental proceeding was initiated against the petitioner vide Office Order No. 56 dated 20.03.2017, issued under the signature of the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna, for the alleged charge that the petitioner was absent from his duty since 07.10.2013 and after availing earned leave till 30.10.2013, he has not reported before the Executive Engineer, Road Construction Division-1, Road Construction Department, Government of Bihar, Gaya. It is specific contention of the learned senior counsel for the petitioner that no departmental proceeding was initiated against the petitioner for any event after his superannuation. The departmental proceeding ultimately concluded and vide office order contained in Memo No. 1779 dated 25.02.2020 the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna proceeded to pass punishment order under Rule-43(a) of the Bihar Pension Rules, 1950 whereby the entire pension of the petitioner, including the salary for the period 07.10.2013 to 31.10.2019 was directed to be forfeited.

7. The learned senior counsel for the petitioner submits that the petitioner challenged the said punishment order dated 25.02.2020 by filing a writ petition before this Court,



which was numbered as *C.W.J.C No.7700 of 2020* and a Co-ordinate Bench of this Court vide order dated 12.03.2021, after considering the submission made on behalf of the learned senior counsel for the petitioner, proceeded to set aside the order contained in Memo No. 1779 dated 25.02.2020 and liberty was granted to the respondents to pass fresh order in accordance with law, within a period of four weeks from the date of receipts/production of a copy of the order. In compliance of the order dated 12.03.2021 passed in *C.W.J.C. No.7700 of 2020*, the respondents instead of conducting a fresh departmental proceeding, proceeded to pass fresh order contained in Memo No. 2950 dated 12.04.2021 issued under the signature of the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna in which same punishment was awarded, however, instead of Rule- 43(a) of the Bihar Pension Rules, 1950 the order was passed under Rule-43(b) of the Bihar Pension Rules, 1950.

8. The learned senior counsel for the petitioner further submits that the impugned order dated 12.04.2021 is in teeth of the provisions contained in Rule-43(b) of the Bihar Pension Rules which provides that “*the State Government further reserve to themselves the right of withholding or*



withdrawing a pension or any part of it, whether permanently or for a specified period, and the right or ordering the recovery from a pension of the whole or part of any pecuniary loss created to Government if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct; or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement.”

9. The learned senior counsel for the petitioner further submits that under Rule-43(b) of the Bihar Pension Rules, 1950, the punishment which has been awarded by impugned order dated 12.04.2021, cannot be awarded since even in the earlier order dated 25.02.2020, the disciplinary authority has not recorded his finding that the petitioner has been found guilty of grave misconduct or any of his action has caused pecuniary loss to the Government by misconduct or negligence during his entire service period. The learned senior counsel for the petitioner finally submits that the punishment order dated 12.04.2021 is wholly without jurisdiction.

10. The learned senior counsel for the petitioner refers to and relies on a judgment dated 17.05.2019 passed by a Co-ordinate Bench of this Court in *C.W.J.C. No.3956 of 2014*



wherein the learned Single Judge after considering the submissions made by the parties came to the conclusion that:

“From a bare reading of Rule 43(b) of the Bihar Pension Rules, 1950 as also considering the law laid down by this Hon'ble Court, in the aforesaid judgments referred to herein above in the preceding paragraphs, this Court finds that the punishments inflicted upon the petitioner by the impugned judgment dated 23.09.2013 regarding recovery of the salary pertaining to his entire service period and rejection of the claim of the petitioner for pensionary benefits, do not fall within the ambit of the punishment which can be awarded under Rule Patna High Court CWJC No.3956 of 2014 dt.05-07-2019 43(b) of the Bihar Pension Rules, 1950, hence on this ground as well the impugned order dated 23.09.2013 is liable to be set aside and is accordingly quashed”

11. Per contra the learned counsel for the State submits that in compliance of the order dated 12.03.2021 passed in *C.W.J.C. No. 7700 of 2020*, the disciplinary authority has passed fresh order under the provision of 43(b) of the Bihar Pension Rules, 1950, since the earlier order was passed due to inadvertence and instead of Rule-43(b), Rule-43(a) of the Bihar Pension Rules, 1950 was recorded in the concluding portion of



the order dated 25.02.2020, though in paragraph no.4 of the said order it has correctly been mentioned as 43(b).

12. The learned counsel for the State further submits that the departmental proceeding was initiated against the petitioner for certain charges on 20.03.2017, which was converted into the proceedings under Rule 43(b) of the Bihar Pension Rules, 1950 on 25.11.2019, since the petitioner retired on 31.10.2019. During earlier departmental proceeding, every opportunity was granted to the petitioner to appear and contest in the departmental proceeding, but the petitioner did not do the same and kept on delaying the departmental proceeding on one pretext or the other. Before closing the enquiry proceeding, last chance was given to the petitioner by the Enquiry Officer on 23.01.2019, with a direction to the petitioner, to appear on 22.02.2019, wherein it was stipulated that the order will be passed *ex-parte* in the departmental enquiry. Even paper publication was done and the same was also uploaded on the official website of the department, but the petitioner did not appear in the said departmental enquiry.

13. The learned State counsel further submits that even opportunity of filing reply to the second show cause was given to the petitioner on 17.07.2019, but the petitioner did not



choose to do so and he raised question with regard to conversion of the departmental proceeding into proceeding under Rule-43(b) of the Bihar Pension Rules, 1950.

14. After having heard the learned counsel for the parties and after going through the documents available on record, this Court finds that no doubt, a departmental proceeding was conducted against the petitioner and opportunity was given to him, but for the reasons best known to the petitioner, he choose not to participate in the same and pursuant to the retirement of the petitioner, the same was converted into the proceeding under Section 43(b) of the Bihar Pension Rules, 1950. From perusal of the Rule 43(b) of the Bihar Pension Rules, 1950, it would transpire that the State Government reserves the right to withhold or withdraw the pension or any part of it whether permanently or for a specified period and also reserves the right of ordering the recovery from pension of the whole or part for any pecuniary loss caused to the Government, if the person concerned is found in a departmental proceeding or a judicial proceeding to have been guilty of grave misconduct or to have caused pecuniary loss to the Government by misconduct or negligence, during his service including service rendered on re-employment after retirement. In the present case, from the



order dated 25.02.2020, issued under the signature of the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna, it would transpire that in the entire order nowhere he came to the conclusion that the petitioner was found guilty of grave misconduct during the entire departmental proceeding or any pecuniary loss has been caused to the government, due to action on the part of the petitioner. From the order impugned contained in Memo No. 2950 dated 12.04.2021, it does not appear that the order fall within the ambit of the punishment which can be awarded under Rule 43(b) of the Bihar Pension Rules, 1950.

15. Accordingly, the order contained in Memo No. 2950 dated 12.04.2021 issued under the signature of the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna is set aside.

16. The matter is remitted back to the Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna to proceed afresh in the matter as per the provisions contained in Rule 43(b) of the Bihar Pension Rules, 1950.

17. The entire exercise must be completed within a period of six months from the date of production/receipt of the copy of the order.



18. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna will take into consideration the fact that the petitioner has already retired on 31.10.2019 and his entire pension has been forfeited and even salary for the period between 07.10.2013 to 31.10.2019 has not been paid. It goes without saying that the petitioner will be given opportunity to defend himself in the departmental proceeding.

19. With the aforementioned observations and directions, the presentation writ petition stands disposed of.

(Ritesh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.03.2026
Transmission Date	NA

