
(2010) 08 JH CK 0054
In the Jharkhand High Court

Bihar State Electricity Board and Others	APPELLANT
Vs	
Sant Lal Sahni and Another	RESPONDENT

Date of Decision : 19-08-2010

Acts Referred:

Bihar Pension Rules, 1957 — Rule 43

Citation : (2010) 08 JH CK 0054

Hon'ble Judges : Sushil Harkauli, Acting C.J.; Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. By the impugned order, the learned Single Judge has quashed the recovery.
2. It has been argued by Learned Counsel for the appellants that action was taken under Rule 43 (b) of the Bihar Pension Rules, 1957. The said Rule reads as follows:

Rule 43. (b)_ 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 of ordering the recovery from a pension of the whole or part of any pecuniary loss caused 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; Provided that-

 - (a) such departmental proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment;
 - (i) shall not be instituted save with the sanction of the State Government;
 - (ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and

(iii) shall be conducted by such authority and at such place or places as the State Government may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made;

(b) judicial proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment, shall have been instituted in accordance with Sub-clause (ii) of Clause (a); and

(c) The Bihar Public Service Commission, shall be consulted before final orders are passed.

3. It has been argued by Learned Counsel for the appellants that the aforesaid Rule has been adopted by the Bihar State Electricity Board.

4. However, it has not been shown that the Rule has been adopted with any modification. If the Rule has been adopted in verbatim, the appellants must be held to be bound by the words of the Rule. As provided under proviso (a) (i), which says that no such proceeding can be initiated after retirement, save with the sanction of the State Government. There is no averment that sanction of the State Government was taken.

5. Accordingly, there is no merit in this appeal requiring any interference in this Appeal. The appeal is dismissed.