

---

**(2010) 11 PAT CK 0111**  
**In the Patna High Court**  
**Case No : CWJC No. 4970 of 2010**

Gorakh Nath Sharma

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

---

**Date of Decision :** 15-11-2010

**Acts Referred:**

**Citation :** (2010) 11 PAT CK 0111

**Final Decision :** Allowed

---

### Judgement

Navin Sinha, J.—Heard learned Counsel for the Petitioner and learned Counsel for the State.

2. The Petitioner questions the order dated 29.4.2005 initiating departmental proceedings against him under 43 (b) of the Bihar Pension Rules. He is stated to have superannuated on 31.10.2004.

3. Learned Counsel for the Petitioner submits that the charges relate to the period 2.5.1991 to 30.11.1999, when he was posted as a Junior Engineer in the Road Construction Division, Lakhisarai. It is submitted that the memo of charge is dated 2.2.2005 which is much beyond the period of four years from the date of the charge. Reliance is placed upon a decision of the Supreme Court reported in State of Bihar and others Vs. Mohd. Idris Ansari, on which a decision of this Court reported in 2010 (1) P.L.J.R. 686 (Bhubneshwar Sharma v. The State of Bihar and Ors.) is founded.

4. Learned Counsel for the Respondents from the counter affidavit submits that the issue was discovered in the audit objection of the year 1999-2000. The Petitioner did not handover charge in 1999 and therefore it is a continuing cause of action.

5. It is the specific assertion of the writ Petitioner in paragraph-7 that the charge period in question is between 2,5.1991 to 30.11.1999. In that context it has been pointed out during submission that the period mentioned in paragraph-10- is an inadvertent error and should be read in consonance with paragraph-7 of the

writ application. Dealing with these two paragraphs, the Respondents in their counter affidavit have stated that it is a matter of record. It therefore goes beyond the pale of any controversy that the charges relate to the period 1991 to 1999. Even, if the charges are taken to commence from 30.11.1999, the memo of charge dated 2.2.2005 is clearly beyond the period of four years.

6. In view of the discussion noticed in paragraph-13 of the judgment of this Court in the case of Bhubneshwar Sharma (supra) as explained by the Supreme Court, the present proceedings u/s 43 (b) of the Bihar Pension Rules are clearly barred as being beyond the period of four years from the date of charge. The entire departmental proceedings against the Petitioner including memo of charges are therefore quashed. The Petitioner is held entitled to entire consequential benefits in accordance with law.

7. The application stands allowed.