
(2001) 09 JH CK 0077
In the Jharkhand High Court
Case No : CWJC No. 2256 of 2001

Mangal Singh Laguri

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 24-09-2001

Acts Referred:

Bihar Pension Rules, 1950 — Rule 43

Citation : (2001) 09 JH CK 0077

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A. Sahay, for the Appellant; Md. Shamim Akhtar, SC II, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The petitioner was in the services of the State and retired on 30th November, 1997 from the post of Range Officer. Forest. Much after his retirement, the Conservator of Forest, State Trading, Singhbhum Circle, Chaibasa issued impugned Order No. 11, dated 21st April, 2001 initiating a departmental proceeding and vide Order No. 12, dated 21st April, 2001 appointed one Sri Arun Kispota, Assistant Conservator of Forest, Chaibasa as the Enquiry Officer.

2. Admittedly, the petitioner retired on 31st November, 1997, so no departmental proceeding can be initiated against him for the purpose of punishment. However, it was open to the State to initiate a departmental proceeding under Rule 43(b) of the Bihar Pension Rules, but as the allegation related to the year 1985-86 to 1990-91 and 1993-94, more than four years having passed, under Proviso to Rule 43(b), no proceeding can be initiated to curtail/withhold any amount from pension/gratuity.

4. In any case, the Conservator of Forest. State Trading, Singhbhum Circle, Chaibasa has no jurisdiction to initiate even a proceeding under Rule 43(b) of the

Bihar Pension Rules, 1950, the petitioner having retired.

5. For the reasons aforesaid, the Order Nos. 11 and 12, dated 21st April. 2001 (Annexures 1 and 2), both being without jurisdiction, are set-aside.

6. The respondents are directed to pay the petitioner, the rest of the pension and gratuity and other dues, if any, within three months, failing which they will be liable to pay interest @ 8% on such admitted dues.

7. The writ petition is allowed with aforesaid observations and directions.

8. Writ petition allowed.