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**(2014) 02 PAT CK 0108**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 14289 of 2005

Mohan Lal Das

APPELLANT

Vs

The State of Bihar

RESPONDENT

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**Date of Decision :** 13-02-2014

**Acts Referred:**

**Citation :** (2014) 1 BBCJ 395 : (2014) 2 BLJud 33

**Hon'ble Judges :** R.M. Doshit, CJ. and Ashwani Kumar Singh, J.

**Bench :** Division Bench

**Advocate :** Mr. Mohan Lal Das (In person), for the Petitioner; Mr. Satyabir Bharti, Advocate, for the Respondent-High Court; Mr. Pushkar Narain Shahi, A.A.G.-10, Mr. Patanjali Rishi, A.C. to A.A.G.-10, for the Respondent-State

**Final Decision :** Dismissed

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## Judgement

R.M. Doshit, C.J. (Oral)&mdash;This Petition under Article 226 of the Constitution has been filed by a retired judicial officer, an Additional Munsif, to challenge the Government order dated 10th September 1996 to retire the petitioner from service in public interest in exercise of power conferred by Rule 74(b)(ii) of the Bihar Service Code before he attained the age of superannuation.

2. It appears that the petitioner entered the service of the Bihar Government (Judicial Branch) as Munsif in 1975. During his service career, he was thrice placed under suspension, once he was visited with punishment of withholding of three increments with future effect. Having regard to his service record, the High Court, in exercise of power conferred by Rule 74(b) (ii) of the Bihar Service Code, recommended that the petitioner be retired from service in public interest. Pursuant to the said recommendation, under impugned order dated 10th September 1996, the petitioner was retired from government service in public interest. It was further directed that in lieu of notice the petitioner be paid three months' salary.

3. We have heard the petitioner in extenso. Although the petitioner was retired in

public interest as early as on 10th September 1996, he has approached this Court almost 10 years after the date of cause of action. The undue delay has not been explained.

4. In our opinion, this Court would not exercise its power of judicial review to decide the stale claims. In the present case, on the date of the petition the petitioner had already reached the age of 65 years. Irrespective of the delay in filing the petition, we have examined the merits of the case. Having regard to the service record of the petitioner and the fact that the petitioner had never earned promotion in 21 years of his service, we are of the opinion that the order of compulsory retirement in exercise of power conferred by Rule 74 (b)(ii) of the Bihar Service Code was wholly justified.

5. We see not merit in this Petition. Petition is dismissed. Parties will bear their own costs.