

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Review Jurisdiction)**

Civil Review No. 61 of 2023

Dhananjay Sharma, son of Late Rana Sarwajit Sharma, resident of Saket Nagar, PO: Hinoo, PS: Doranda and District: Ranchi. ... Petitioner/ Appellant

-Versus-

1. The State of Jharkhand, through the Secretary, Department of Animal Husbandry, Govt. of Jharkhand, at Nepal House, PO & PS: Doranda, District: Ranchi, Jharkhand;
2. The Director, Animal Husbandry and Co-operative, Government of Jharkhand, officiating at Nepal House, Doranda, PO and PS: Doranda, & District: Ranchi;
3. The Regional Director, Animal Husbandry and Co-operative, Government of Jharkhand, officiating at Nepal House, Doranda, PO and PS: Doranda & District: Ranchi;
4. The Project Officer, Artificial Insemination Officer, Frozen Semen Bank, Hotwar, Ranchi, PO and PS: Kanke and District: Ranchi.
5. The District Provident Fund Officer, Government of Jharkhand, Ranchi at Ranchi, PO: GPO, PS: Ranchi and District: Ranchi.

...Opposite Parties/Respondents

**CORAM :- HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

For the Petitioner : Mr. Ajit Kumar, Sr. Advocate
For the State : Mr. Saurav Mahto, AC to GP-I

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09/ 17.03.2026

Heard Mr. Ajit Kumar, learned senior counsel for the review petitioner and Mr. Saurav Mahto, learned AC to GP-I.

2. This application has been preferred by the petitioner for review of the order of dismissal dated 27.02.2023 passed in LPA No. 31 of 2022.
3. It has been submitted by Mr. Ajit Kumar, learned senior counsel for the review petitioner that the appeal was dismissed without taking into consideration that no formal order regarding stoppage of pension was passed. Mere issuance of notices cannot be termed as final order passed by the competent authority under Rule 139 (b) or 139 (c) of the Jharkhand Pension Rules. It has been submitted that the pension of the petitioner cannot be stopped when there has been no order passed by the State Government under Rule 139(c) of the Jharkhand Pension Rules and the pensions sanctioning

authority stands denuded of his powers to reduce/ revise the pension of an employee after sanctioning of pension.

4. Mr. Saurav Mahto, learned AC to GP-I has submitted that the petitioner was convicted in a criminal case and would be entitled to pension only for the period 14.04.2006. There is no error apparent on the face of the record and therefore, the present review application is liable to be dismissed.

5. The facts briefly stated reveal that the petitioner was appointed as a clerk in the Office of the Regional Director, Department of Animal Husbandry where he joined on 14.04.1980. On completion of approximately 21 years of service the petitioner had submitted an application on 13.12.2001 for voluntary retirement w.e.f. 31.03.2002. The said application was rejected by the respondents vide order as contained in Letter No. 1356 dated 16.05.2002 and communicated to the petitioner vide Memo No. 734 dated 18.05.2002 and the petitioner was asked to join his duty. The order of rejection of his plea for voluntary retirement was challenged by the petitioner in W.P.(S) No.4837 of 2002 and during the pendency of the writ application the petitioner was put under suspension vide order as contained in Memo No. 3137 dated 14.12.2002 on the ground that he was an accused in connection with RC 5(A)/2000 A.H.D. (Pat). A departmental proceeding was also initiated against the petitioner and vide order as contained in Memo No.28 dated 07.01.2005 the petitioner was dismissed from service. The orders subsequent to the filing of the writ application was challenged by the petitioner through an interlocutory application and the writ application being W.P.(S) No. 4837 of 2002 was allowed vide order dated 11.02.2011 holding therein that the petitioner has voluntarily retired on 31.03.2002 and therefore, all consequential orders passed by the Department in the departmental inquiry were quashed. The respondents however were given liberty to proceed against the petitioner treating him to be a retired employee. The order dated 11.02.2011 passed in W.P.(S) No. 4837 of 2002 was challenged by the respondents in L.P.A. No. 326 of 2011 which was dismissed on 09.05.2012 and the said order was assailed before the Hon'ble Supreme Court in S.L.P (Civil) No. 26682 of 2012 which also was dismissed vide order dated 08.07.2013. Since the directions given in the order dated 11.02.2011 passed in W.P.(S) No. 4837 of 2002 was not being complied with by the respondents a contempt application was preferred by the petitioner being Cont. (Civil) Case No. 303 of 2011 and during the pendency of the contempt application an order was passed by the respondents as contained in Memo No. 1628 dated

04.12.2013 and based on which the contempt application was dismissed on 22.01.2016 with a liberty to the petitioner to challenge the order dated 04.12.2013. The gist of the order as contained in Memo No. 1628 dated 04.12.2013 reveals that the application for voluntary retirement of the petitioner which was rejected has been cancelled; the petitioner was deemed to have superannuated on 30.03.2002; the departmental actions against the petitioner were cancelled; the subsistence allowance paid to the petitioner during his period of suspension from 14.12.2002 to 06.01.2005 would be recovered from the petitioner; after superannuation on 30.03.2002 the petitioner was convicted in RC 5(A)/2000 A.H.D. (Pat) on 15.04.2006 and therefore, he would be entitled for his pension only for the period up to 14.04.2006; to issue notice to the petitioner under Rule 139 of the Bihar/Jharkhand Pension Rules as to why his pension after the period 15.04.2006 and the whole gratuity would not be stopped; the leave encashment would be paid as per law. It has been stated that thereafter the respondent no.4 had issued a letter to the petitioner vide Letter No. 538 dated 26.12.2013 asking the petitioner to deposit/ return an amount of Rs.1,30,153/- paid to him on account of subsistence allowance for the period between 14.12.2002 to 06.01.2005. The said amount was ultimately recovered from the pension of the petitioner. The petitioner being aggrieved with a part of the order as contained in Memo No. 1628 dated 04.12.2013 had assailed the same in W.P.(S) No. 1251 of 2016 and vide order dated 30.11.2021 the letter dated 26.12.2013 by which the petitioner has been asked to deposit an amount of Rs.1,30,153/- paid to him as subsistence allowance had been quashed and the respondents were directed to refund the amount to the petitioner if already recovered. So far as pensionary benefits are concerned, the petitioner was given a liberty to move afresh for grant of pensionary benefits if criminal appeal is decided in his favour. This led to another round of litigation as the petitioner as well as the respondent-State preferred separate appeals being L.P.A. No. 31 of 2022 and L.P.A. No. 151 of 2022 respectively and vide order dated 27.02.2023 both the Letters Patent Appeals have been dismissed.

6. The main plank in which Mr. Ajit Kumar, learned senior counsel has based his argument is that no order of stoppage of pension has been passed by the concerned authority which was a mandatory requirement in terms of Rule 139 (c) of the Jharkhand Pension Rules and this fact has not at all been considered in the order under review. The order under review does show that the refund of the subsistence allowance which was deducted from the pension

of the petitioner has attained centre stage and no consideration at all has been made to the fact that without any formal order the pension of the petitioner has been stopped. Incidentally the learned Single Judge had given a liberty to the petitioner to seek pension if the criminal appeal is decided in his favour. In the writ application, mention has been made about the petitioner being issued notice under Rule 139 of the Jharkhand Pension Rules and a reply was also filed thereto. However, admittedly no formal order of stoppage of pension has been passed. It also appears that the power to review the pension already sanctioned can only be exercised by the State Government and none of the above features have earlier been considered by the respondents or finds place in the order under review. This being an error apparent on the face of the record as the issue with respect to continuation of pension as claimed by the petitioner has not been resolved, we are inclined to review the order dated 27.02.2023 passed in LPA No. 31 of 2022 and consequently, remit the matter back to the Principal Secretary, Department of Animal Husbandry, Govt. of Jharkhand to pass a fresh order on the claim of the petitioner for review of his pension based on the findings recorded by us. The exercise indicated above shall be completed within a period of 12 months from the date of receipt/production of a copy of this order.

7. This review application stands disposed of.

8. Pending I.A., if any, stands closed.

(RONGON MUKHOPADHYAY, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court, Ranchi,

Dated: 17.03.2026

S.B.

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