

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No.250 of 2026

Ganga Prasad Sinha, S/o Late Ram Lakhan Sinha, R/o At- Ayodhyapuri, P.O-Kokar, P.S. Sadar, District- Ranchi, Jharkhand

.... Petitioner(s).

Versus

1.The State of Jharkhand through the Secretary, School Education and Literacy Department, Govt. of Jharkhand, Project Building, P.O. & P.S. Dhurwa, District-Ranchi, Jharkhand

2.The Secretary, Department of Finance, Govt. of Jharkhand, Project Building, P.O. & P.S. Dhurwa, District Ranch, Jharkhand

3.The Director, Primary Education, School Education and Literacy Department, Govt. of Jharkhand, Project Building, P.O. & P.S. Dhurwa, District- Ranchi, Jharkhand

4.The Regional Joint Director of Education Chhotanagpur South Division at Ranchi, P.O. & P.S. Ranchi, District Ranchi, Jharkhand

5.The District Education Officer, Khunti, P.O. & P.S.- Khunti, District- Khunti, Jharkhand

6.The District Education Officer, Khunti, P.O. & P.S.- Khunti, District- Khunti, Jharkhand

7.The Treasury Officer, Khunti, P.O. & P.S.- Khunti, District- Khunti, Jharkhand

8.The Accountant General, Jharkhand, Ranchi, P.O. & P.S. Doranda, District Ranchi, Jharkhand

... Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Vivek Singh, Advocate
Mr. Ram Prakash Singh, Advocate
Ms. Saba Ali, Advocate
For the State : Mr. K.K. Singh, SC-V
Mr. Vishnu Prabhakar Pathak, AC to SC-V
For the Resp-AG : Ms. Richa Sanchita, Advocate
Ms. Malsi Pathak, Advocate

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08/ 21.01.2026: Heard, learned counsel for the parties.

2. Petitioner is aggrieved by the letter contained in Memo No.1035 dated 16.08.2024, whereby his pension has been fixed provisionally to the extent of 75%, on the ground of pendency of departmental proceeding.

3. Learned counsel for the petitioner submits that pension and gratuity cannot be withheld and 100% has to be paid. He refers to several judgments of this Court.

4. Admittedly, the petitioner has superannuated from service. A proceeding is pending, which is also admitted. Further, admittedly a criminal case is also pending against this petitioner.

5. The Government of Jharkhand invoking the proviso to Article 309 of the Constitution of India has amended the Jharkhand Pension Rules, 2000 with effect from 2018. The following is inserted as sub-rule (c) in rule 43 of the Jharkhand Pension Rules 2000-

"(c) Where any departmental or judicial proceeding is instituted or continued against an officer/employee who has retired on attaining the age of compulsory retirement or otherwise, he shall be sanctioned by the Government which instituted such proceeding, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon."

6. From perusal of the aforesaid rule, it is quite clear that the employer has the power to fix the provisional pension and withhold gratuity till disposal of the criminal case or the departmental proceeding. In this case, the aforesaid provision has been invoked and the provisional pension has been fixed. Admittedly, the departmental proceeding and the criminal case is pending against this petitioner, which attracts invoking Rule 43(c) Jharkhand Pension Rules. Thus, the order is not without jurisdiction and no illegality has been committed, as the order itself says that this provisional pension will be subject to the final decision of the proceeding.

7. In view of the aforesaid facts, the instant writ petition stands dismissed.

(ANANDA SEN, J.)