

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.11791/2000

(From the judgement and order dated 24/03/2000 in LPA 967/99
of The HIGH COURT OF PATNA)

MAN BAHADUR MAHTO

Petitioner (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 20/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M. JAGANNADHA RAO
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s)

Mr. S.B. Upadhyay,Adv.

For Respondent (s)

Mr.HL Aggarwal,Sr.Adv.
Mr. B.B. Singh,Adv.
Ms.B.Sunita Rao,Adv.

UPON hearing counsel the Court made the following
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Leave granted. The appeal is allowed with no
order as to costs.

(Usha Bhardwaj)
P.S. to Registrar

(D.D.Jindal)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6757 OF 2000@@
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(Arising out of SLP(Civil) No.11791 of 2000)

Man Bahadur Mahto

.....Appellant

versus

The State of Bihar & Ors.

.....Respondents

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Special leave granted.

In view of the show cause notice issued on 25.4.96 prior to the superannuation of the appellant on 30.4.96 it appears to us that the case of the appellant is to be considered in the light of Rule 43(b) of the Bihar Pension Rules. The said rule reads as follows:

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"43(a) Future good conduct is an implied condition of every grant of a pension. The Provincial Government reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner is convicted of serious crime or be guilty of grave misconduct. The decision of the Provincial Government on any question of withholding or withdrawing the whole of any part of a pension under this rule, shall be final and conclusive.

(b) The State Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of

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ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct: or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement:

Provided that:-

(a) such departmental proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment,

(i) shall not be instituted save with the sanction of the State Government;

(ii) shall be in respect of an event which took place not more than

four years before the institution of such proceedings:

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Under the said rule the provision for imposing a cut in the pension would be permissible if the departmental proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment, were not initiated in respect of events which took place not more than four years before the institution of such proceedings. In other words, if the proceedings under the abovesaid rule are not initiated by the officer who was on duty or before the retirement and were to be initiated for the first time

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after retirement it will not be permissible to initiate any proceedings under the rules if more than four years had lapsed before the initiation of such proceedings. We, therefore, hold that the respondent the State of Bihar is right in contending that it is a case where the proceedings were initiated on 25.4.96 before retirement. The restriction that the proceedings must relate to events which took place before four years would not therefore, be applicable. Therefore the proceedings were within the jurisdiction of the department.

Therefore, in the facts and circumstances of the case, we are of the view that the learned Single Judge was right in allowing the writ petition and the Division Bench was wrong in setting aside the said proceedings. We, therefore, restore the order of the learned Single Judge and set aside the judgment of the Division Bench and the proceedings under Section 43(b) are quashed.

The appeal is allowed accordingly. There shall be no order as to costs.

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.....J.
(M. Jagannadha Rao)

New Delhi,
November 20, 2000

.....J.
(K.G. Balakrishnan)