

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No.102 of 2025**

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1. The State of Jharkhand.
 2. The Principal Secretary, Water Resources Department, Government of Jharkhand, Nepal House, Doranda, Ranchi.
 3. The Joint Secretary, Water Resources Department, Government of Jharkhand, Nepal House, Doranda, Ranchi.
 4. The Chief Engineer, Water Resources Department (Palamau Anchal), Government of Jharkhand, Nepal House, Doranda, Ranchi.
 5. The Executive Engineer, Minor Irrigation Division, Chas, Bokaro.
 6. The Additional Secretary, Water Resources Department, Government of Jharkhand, Nepal House, Doranda, Ranchi.
- Appellants.

-Versus-

Brajeshwar Singh, S/o Late Ugrah Singh, resident of Shivpuri Colony, Jodhadih More, Chas, P.O. & P.S. Chas, District Bokaro, Jharkhand.

..... Respondent.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Appellants : Mr. Anish Kr. Mishra, AC to Sr. SC-I
For the Respondent: Mr. Manoj Prasad, Advocate
Ms. Jyoti Kumari, Advocate

Reserved on 10.03.2026 Pronounced on 19.03.2026

Per: Rajesh Shankar, J.

I.A. No.1151 of 2025:

1. The present interlocutory application has been filed under Section 5 of the Limitation Act, 1963 to condone the delay of 50 days in filing the present appeal.
2. Having heard learned counsel for the appellants and on being satisfied with the reasons set out in the present interlocutory application, the said delay in filing the present appeal is hereby condoned.
3. I.A. No.1151 of 2025 is, accordingly, disposed of.

L.P.A. No.102 of 2025:

4. The present appeal has been filed against the order/judgment dated 24.04.2024 passed by the learned Single Judge of this Court in the case of W.P.(S) No. 6757 of 2027 whereby the order as contained in Memo No. 3912 dated 12.09.2017 issued under the signature of the Under Secretary, Water Resources Department, Government of Jharkhand, imposing punishment of 15% deduction from the pension of the writ petitioner/respondent, namely, Brajeshwar Singh for a period of five years, has been quashed.

Facts of the Case

5. The writ petitioner/respondent had joined the service as Junior Engineer in the year 1979 under the Water Resources Department, Government of Bihar and after bifurcation, his cadre was allocated to Water Resources Department, Government of Jharkhand. He was subsequently transferred to Minor Irrigation Division, Bokaro, where he joined as Junior Engineer at Jaridih Sub-division on 05.10.2002.
6. A complaint was lodged by the former Transport Minister, Government of Jharkhand through a letter written to Water Resources Department, Government of Jharkhand alleging therein that financial irregularities were made by the then Executive Engineer, Minor Irrigation Division, Bokaro in connivance with Assistant Engineer and other Junior Engineers of the said division as well as the contractor, namely, M/s. Jai Mahalakshmi Construction, Bokaro with respect to various

approved Microlift schemes for different blocks of Bokaro district for the year 2003-04.

7. The said allegation was enquired separately by the Departmental Flying Squad Team and the Chief Engineer, Minor Irrigation, Water Resources Department, Ranchi and the enquiry report submitted by them revealed that the entire expenditure incurred in construction works of the said schemes for the purpose of irrigation had failed to produce the expected results.
8. The petitioner was issued show cause notice vide Memo No. 3669 dated 17.07.2015 which was replied by him on 08.08.2015. Subsequently, the petitioner retired from service on 31.12.2016. Thereafter, he was issued second show cause notice under rule 139 of Jharkhand Pension Rule, 2000 vide letter no.2079 dated 02.05.2017 which was also replied by him vide letter dated 14.05.2017. Finally, an order of punishment was passed, as contained in memo no.3912 dated 12.09.2017 issued under the signature of the Under Secretary, Water Resources Department, Government of Jharkhand, imposing penalty of 15% deduction in pension of the writ petitioner for a period of five years.
9. Aggrieved with the aforesaid order of punishment, the respondent/writ petitioner filed a writ petition being W.P.(S) No.6757 of 2017 which was allowed by the learned Single Judge vide impugned judgment and order dated 24.04.2024 quashing the order of punishment as contained in memo no.3912 dated 12.09.2017.

10. The learned counsel for the appellants submits that the observation made by the learned Single Judge to the effect that no departmental proceeding was initiated against the writ petitioner by serving a charge sheet is not sustainable in view of the fact that on the basis of enquiry report of flying squad team as well as the enquiry report of Chief Engineer, Minor Irrigation, Ranchi, the charges were framed against the erring officials including the petitioner for being involved in execution of the projects pertaining to various Microlift schemes within Bokaro district.
11. It is further submitted that the learned Single Judge has failed to appreciate that the departmental proceeding was initiated against the writ petitioner under rule 55 of Civil Services (Classification Control and Appeal) Rule 1930 vide order as contained in Memo No.412 dated 28.01.2016 prior to the date of his retirement i.e. on 31.12.2016.
12. It is also contended that the imposition of punishment against the writ petitioner was based on the fact that he was found guilty of financial embezzlement as well as irregular execution of the approved Microlift schemes under different blocks of Minor Irrigation Division, Bokaro.
13. It is further urged that the appellants have taken action against the writ petitioner under rule 139 of the Rules, 2000 as his service was not thoroughly satisfactory.
14. On the contrary, the learned counsel for the respondent/writ petitioner submits that the punishment of 15% deduction from

the petitioner's payable pension was passed without initiating a departmental proceeding and without affording him due opportunity of hearing.

15. It is further submitted that the entire issue relates to the year 2003-04 and the proceeding was initiated at the fag end of service of the writ petitioner which is contrary to the provision of rule 43(b) of the Rules, 2000. The period of limitation as prescribed in rule 43(b) is also applicable for initiation of proceeding under rule 139(b) of Rules, 2000.
16. It is also submitted that the punishment order with respect to the deduction of pension of the writ petitioner was passed in a mechanical manner without initiating full-fledged departmental proceeding so as to prove the grave misconduct, if any, on his part during the service tenure.
17. The learned counsel for the writ petitioner/respondent puts reliance on the judgment of the Hon'ble Supreme Court rendered in the case of ***State of Bihar and Others Vs. Mohammad Idrish***, reported in ***1996 Suppl. (3) SCC 56***.

Findings of the Court

18. Heard the learned counsel for the parties and perused the materials available on record.
19. Before delving into the merit of the contentions of the parties, it would be appropriate to refer the provisions of rule 43(b) and rule 139 of the Rules, 2000, which read as under:-

"43 (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 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 proceedings 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 proceeding;

(iii) shall be conducted by such authority and at such place or places as the State Government may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made."

(b) judicial proceedings, if not instituted while the Government servant was on duty either before retirement or during reemployment, shall have been instituted in accordance with subclause (ii) of clause (a); and

(c) the Bihar Public Service Commission, shall be consulted before final orders are passed.

Explanation- For the purposes of the rule (a) departmental proceeding shall be deemed to have been instituted when the charges framed, against the pensioner are issued to him or, if the Government servant has been placed under suspension from an earlier date, on such date; and (b) judicial proceedings shall be deemed to have been instituted:-

- (i) *in the case of criminal proceedings, on the date on which a complaint is made or a charge-sheet is submitted, to a criminal court; and*
- (ii) *in the case of civil proceedings, on the date on which the complaint is presented, or as the case may be, an application is made to a civil Court."*

"139. (a) *The full pension admissible under the rules is not to be given as a matter of course, or unless the service rendered has been really approved.*

(b) *If the service has not been thoroughly satisfactory, the authority sanctioning the pension should make such reduction in the amount as it thinks proper.*

(c) *The State Government reserve to themselves the powers of revising an order relating to pension passed by subordinate authorities under their control, if they are satisfied that the service of the pensioner was not thoroughly satisfactory or that there was proof of grave misconduct on his part while in service. No such power shall, however, be exercised without giving the pensioner concerned a reasonable opportunity of showing cause against the action proposed to be taken in regard to his pension, nor any such power shall be exercised after the expiry of three years from the date of the order sanctioning the pension was first passed."*

20. On perusal of the rule 43(b) of Rules, 2000 it would emerge that the State Government has the power to withhold or withdraw pension or any part of it when the pensioner is found to be guilty of grave misconduct either in a departmental proceeding or a judicial proceeding. The State Government has also the right to recover from pension of the concerned pensioner the whole or part of any pecuniary loss caused to the Government, if such loss is caused to the government by misconduct or negligence during

his service tenure including the service rendered by him on re-employment after retirement.

21. The proviso of rule 43(b) deals with certain pre-conditions for initiation of departmental proceedings and the period of limitation within which such proceedings can be initiated. It provides that if departmental proceeding was not instituted while the government servant was on duty either before retirement or during re-employment, the same shall be instituted only with the sanction of the State Government that too for an event which took place not more than four years before the institution of such proceedings. It further provides that such proceeding shall be conducted by the enquiry officer in accordance with the procedure applicable to the proceedings on which an order of dismissal from service may be made. It also adds that departmental proceeding shall be deemed to have been instituted when the charges framed against the pensioner are issued to him or, if the Government servant has been placed under suspension from an earlier date, on such date.
22. Rule 139 (c) of the Rules, 2000 empowers the State Government to revise an order relating to pension passed by the subordinate authorities under their control, if they are satisfied that the service of the pensioner was not thoroughly satisfactory or that there was proof of grave misconduct on his part while in service. However, before exercising such power, the pensioner should be given a reasonable opportunity of showing cause against the action proposed to be taken with regard to his pension. The

period of limitation for exercising such power is fixed as three years from the date of the order of sanctioning of the pension.

23. Thus, following are the two conditions under which the State Government is empowered to reduce the pension of a pensioner:-

(i) If the service of the pensioner was not thoroughly satisfactory, or

(ii) There is a proof of grave misconduct on his part while in service.

24. The words "thoroughly satisfactory" under the first condition makes it mandatory that before passing the order of deduction of pension of a pensioner, the State Government should take into consideration the entire service record of the pensioner and not a particular instance of committing irregularity.

25. So far as the order of deduction of pension on the ground of grave misconduct, the State Government has to satisfy itself that in departmental or judicial proceeding, it has been proved that the pensioner is guilty of grave misconduct. Mere allegation of irregularity is not sufficient to order deduction of pension in exercise of power under rule 139(c) of the Rules, 2000.

26. We have perused the judgment of the Hon'ble Supreme Court rendered in the case of ***State of Bihar & Others Vs. Mohd. Idris Ansari***, reported in ***1995 Supp (3) SCC 56***, as has been relied upon by the learned counsel for the respondent. In the said case, it has been held that with respect to the second type of cases, the proof of grave misconduct on the part of the concerned government servant during his service tenure, will have to be

called out by the revisional authority from the departmental proceedings or judicial proceedings which might have taken place during his service tenure or from departmental proceedings, which may be initiated even after his retirement, but such departmental proceedings will have to comply with the requirements of Rule 43(b) of the Rules, 2000.

27. Now, the question before this court is as to whether any of the two conditions mentioned in rule 139(c) of the Rules, 2000 was available in the present case so as to pass the order of deduction of pension of the writ petitioner.
28. Reverting back to the present case, the writ petitioner was asked to submit explanation vide letter no.3669 dated 17.07.2015 issued by the Deputy Secretary, Water Resources Department, Government of Jharkhand calling upon him as to why a departmental proceeding be not initiated against him relating to the alleged irregularities reflected from the enquiry report of the Departmental Flying Squad.
29. The writ petitioner/respondent replied the said show cause notice on 08.08.2015, denying all the allegations levelled against him. Subsequently, he retired from service on 31.12.2016. The second show cause notice dated 02.05.2017 was then issued to him under rule 139 of the Rules, 2000 for the proposed punishment of 15% deduction from his pension for a period of five years. The said second show cause notice was also replied by him. Thereafter, 15% of his payable pension was reduced for a period of five years vide order as contained in memo no.3912 dated

12.09.2017 issued under the signature of the Under Secretary, Water Resources Department, Government of Jharkhand alleging inter alia that for the work relating to Microlift Schemes for the year 2003-04, he had marked evaluation of the concerned works in the measurement book without inspecting the same. Thus, by citing a particular instance of irregularity, the order of deduction of pension of the writ petitioner/respondent was passed. It was, however, not alleged against him that his service tenure was thoroughly unsatisfactory.

30. We are of the view that by looking to a single instance of irregularity, the authority cannot form an opinion that the service of an employee was thoroughly unsatisfactory so as to exercise the power under rule 139(c) of the Rules, 2000, rather the authority has to examine the entire service record of such employee. Thus, the first condition for taking action against the respondent for deduction of his pension is not fulfilled in the present case.
31. It is further evident from the record that for the allegation of irregularities committed during the year 2003-04, the explanations were called from the writ petitioner/respondent. On receipt of his reply, the second show cause notice under rule 139 of Rules, 2000 was issued to him after his retirement and the order of deduction for a period of five years from his pension was passed. Thus, neither a full-fledged departmental proceeding was initiated against the writ petitioner by issuing memo of charge to him nor any criminal proceeding was set in motion against him.

Moreover, neither proper inquiry for the alleged irregularities was conducted against the writ petitioner by appointing inquiry officer nor due opportunity of hearing was given to him in full-fledged enquiry proceeding. Thus, the charge of grave misconduct cannot be said to be proved against him which is a pre-condition for exercise of power under rule 139(c) of Rules, 2000 by the State Government.

32. We hereby hold that mere allegation of irregularities is not sufficient to exercise the power under rule 139(c) of the Rules, 2000, rather the same has to be proved in a departmental proceeding or criminal proceeding by giving due opportunity of hearing to the person concerned. It is settled principle of law that when a statute or law prescribes a specific procedure for an action, that procedure must be followed strictly, rendering other methods invalid.
33. It has specifically been provided under rule 43(b) of the Rules, 2000 that the order of withholding or withdrawing pension of a pensioner has to be passed by an authority in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made. We are of the considered view that the same condition is also applicable for deduction of pension in exercise of power conferred under rule 139(c) of the Rules, 2000.
34. From the aforesaid facts, it transpires that condition precedent for exercising power under rule 139(c) of the Rules, 2000 is not fulfilled in the present case and as such the order of deduction of

pension of the writ petitioner/respondent was rightly quashed by the learned Single Judge which needs no interference by this Court.

35. The present appeal is, accordingly, dismissed.
36. Other pending I.A.(s), if any, are also dismissed.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

19th March, 2026
Sanjay/
A.F.R.
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