

**(2003) 06 PAT CK 0032**

**Patna High Court**

**Case No:** L.P.A. No. 488 of 2003

Dr. Tara Nand Singh Tarun

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

**Date of Decision:** June 25, 2003

**Acts Referred:**

- Bihar Pension Rules, 1950 - Rule 139

**Citation:** (2003) 3 PLJR 692

**Hon'ble Judges:** Nagendra Rai, Acting C.J.; R.S. Garg, J

**Bench:** Division Bench

### **Judgement**

@JUDGMENTTAG-ORDER

1. Heard learned Counsel for the Appellant and the State Mr. S.K. Dutta (S.C. 4). Mr. Dutta was asked to assist the court at the time of disposal of the appeal.

2. The appeal has been filed against the order dated 24.4.2003 passed by the learned single judge whereby the prayer of the Appellant to pay salary from April 1982 to March 1996 has been rejected and a direction has been issued to initiate a proceeding under Rule 139 of the Bihar Pension Rules. It appears that for the same relief the Appellant had come earlier to this Court in CWJC No. 5182 of 1998 and this Court directed the concerned authority to Consider the representation on being filed by the Petitioner-Appellant. Thereafter, the petitioner-Appellant filed a representation and on that representation an order has been passed by the Director, Primary Education, wherein it has been found that the Petitioner-Appellant was absent from 1984 to 96. However, that period was treated to be as extraordinary leaves.

3. This Court does not find any reason to take a different view in the matter as the learned judge after having gone through the finding arrived at by the Director, Primary Education, has rightly held that the Petitioner-Appellant is not entitled for

the Salary for the period during which he was absent. It appears that while disposing of the matter, the learned single judge ordered for initiation of a proceeding under Rule 139 of the Bihar Pension Rules.

4. Admittedly, the Appellant has retired. The State has not taken any action and on the other hand has treated the period of absent as extraordinary leaves. In our view, it was not a case where a direction was required to initiate a proceeding under Rule 139 of the Bihar Pension Rules and, accordingly, that direction is set aside.

5. With the aforesaid modification in the order dated 24.4.2003 the appeal is disposed of.