

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1424 of 1999

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Nand Kishore Prasad, Son of late Sarjoo Prasad, resident of Mohalla-Shivpuri, PO & District-Hazaribagh, presently posted as Accounts Assistant at Muzaffarpur Thermal Power Station (Kanti), Muzaffarpur.

.... Petitioner/s

Versus

1. The Bihar State Electricity Board, through the Chairman, Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman, the Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
3. The Secretary, the Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
4. The General Manager-cum-Chief Engineer, Muzaffarpur Thermal Power Station (Kanit), Muzaffarpur
5. The Deputy Director of Personnel, Muzaffarpur Thermal Power Station (Kanti), Muzaffarpur
6. The Accounts Officer, Muzaffarpur Thermal Power Station (Kanti), Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Vinay Kirti Singh, N.B.P.D.Comp. Ltd.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 30-06-2015

1. There is no representation on behalf of the petitioner. Mr. Vinay Kirti Singh, learned Counsel for the North Bihar Power Distribution Company Limited, Successor Company of the Bihar State Electricity Board is present and has made his submissions.

2. The petitioner has sought for a direction from



this Court in the present proceeding under Article 226 of the Constitution of India, restraining the respondents from deducting three advance increments which was allowed to the petitioner on passing departmental examination in the cadre of Junior Accounts Clerk; for the purpose of fixation of his basic pay upon his promotion to the post of Accounts Assistant, with effect from 14.09.1987. Consequential reliefs have also been sought for in the writ application.

3. The facts are short for the purpose of adjudication of the dispute in question. The petitioner was allowed three increments after having passed the departmental examination of Junior Accounts Clerk/Bill Clerks, by an office order dated 28.10.1986. He received the benefits accordingly. Subsequently, by an office order No. 3396 dated 29.06.1995, the petitioner was promoted to the post of Accounts Assistant in the basic scale of Rs. 1500-2660/-.

4. It is the petitioner's case that for the purpose of fixing his basic pay in the cadre of Accounts Assistant, upon his promotion with effect from 14.09.1987, the advance increments earned by him, by virtue of having passed the departmental examination and consequent order dated 28.10.1986, should have been taken into account. He has

relied upon an office order No. 4361/EB, Patna dated 03.10.1980, relevant portion of which reads thus:-

“9. There has been confusion in regard to fixation of pay of such workmen who have been allowed advance increments for passing the Departmental Examination. To make the point clear, such advance increments included in the pay will not be deducted for the purpose of pay fixation and added again in the new scale. The pay fixation in their cases will be made on the common principle i.e., on the basis of their actual basic pay in the old scale of pay including the advance increments as on 1.4.1975.”

5. Referring to the said decision of the erstwhile Bihar State Electricity Board, it is the case of the petitioner that the advance increments included in the pay ought not to have been deducted for the purpose of pay fixation and should have been added in the new scale.

6. Mr. Vinay Kirti Singh, learned counsel appearing on behalf of North Bihar Power Distribution Company Limited, relying upon the Board's Standing order dated 22.03.1973, which has been brought on record by way of Annexure-A to the counter affidavit, has submitted that the advance increments are admissible from the day following the date on which the examination is held, and all such Junior Accounts Clerks/Bill Clerks, who have already passed the said departmental



examination but not yet promoted can get these advance increments. He has, however, submitted, referring to the said Standing Order that advance increments are not admissible to those who have already been promoted and such increments granted to them can not be taken into account for fixation of pay on promotion to the next higher rank. Paragraphs 2 and 3 of the said Standing Order of Board dated 22.03.1973 are relevant and therefore, are being extracted hereinbelow:-

“2. The advance increments shall be admissible from the day following the date on which the examination is held, but all such Junior Accounts Clerks/Bill Clerks who have already passed the said departmental examination but not yet promoted shall get these advance increments with effect from the 4th December, 1972. It will not be admissible to those who have already been promoted.

3. These advance increments shall not be taken into account for fixation of pay on promotion to the next higher rank. (emphasis is mine)

7. Mr. Singh has also drawn my attention to the statement made in paragraph 13 of the writ application itself and Annexure-2 of the writ application to contend that the aforesaid decision dated 03.10.1980 was subsequently, modified by another Office order dated 19.06.1982 issued by the Board clearly contemplating that the pay of such workers

who had been allowed advance increments for passing departmental examination shall be fixed in the revised scale of pay upon promotion, ignoring the advance increments allowed to them.

8. Mr. Vinay Kirti Singh, learned counsel appearing on behalf of the Board appears to be right in his submission that there is no infirmity in the decision of the respondents, ignoring the advance increments granted to the petitioner upon passing of departmental examination, for the purpose of fixation of his basic pay on his promotional post of Accounts Assistant with effect from 14.09.1987.

9. I do not find any merit in this application. This application is accordingly, dismissed.

10. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

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