

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3777 of 2015

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1. Md. Ghani Ansari , Son of Sahid Ansari, Resident of village + Post-Bhelwa, P.S.- Ghorasahan, District- East Champaran, At present working as Assistant at District Treasury Office, Motihari.

2. Md. Aslam Ansari, Son of Hafij Abdullah, Resident of village- Khoripakar, P.O.- Kriitpur, P.S.- Harsidhi, Distt- East Champaran

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Department of Industries Govt. of Bihar, Patna.

2. The Director, Dept. of Industries Govt. of Bihar, Patna.

3. The Managing Director, Bihar State Handloom & Handicraft Corporation Ltd., Udyog Bhawan, Patna-4.

4. The Chief Accounts Officer, Bihar State Handloom & Handicraft Corporation Ltd., Udyog Bhawan, Patna-4.

.... Respondents

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Appearance :

For the Petitioner/s : Mohammad Sufyan, Adv.

For the Respondent/s : Mr. Arun Kumar, AC to GP5

For the Corporation : Dr. Anand Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 13-03-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

“(i) For directing the respondent no.3, to fix the pay of the petitioners in the revised 5th pay scale of Rs.4000-6000 with effect from 1.1.1996 and revised 6th pay scale of Rs.9300-34,800 with effect from 1.4.2006 which is admissible to the petitioner on the post they are working in the present assignment on deputation as Assistant in the District Treasury Officer, Motihari.

(ii) For directing to the respondent no.3, to revise rates an amount of dearness allowance admissible to the petitioner at par with the rates admissible in the Government as service condition in the Corporation has been accepted to

be the same as that in the Government service including the pay scale etc.”

Learned counsel for the petitioners in support of the aforementioned prayer has straightway relied on a few orders passed by this Court, as contained in Annexures 5 series.

This Court has carefully perused the earlier order passed by this Court and in none of them any issue has been decided.

The issue in fact would be as to what would be the terms and conditions of an employee of the Corporation whose services has been, by way of grace, absorbed in the Government service. Admittedly the petitioners were appointed as employees of the Bihar State Handloom and Handicraft Corporation which became a defunct unit. The Government in fact by way of grace in order to provide some sort of sustenance to the employees of the Corporation had sought to fill up the vacancies in the Government by way of their absorption and the terms and conditions of absorption were exclusively mentioned in the order absorbing their service. The petitioner however has not enclosed the order of absorption and has only enclosed the order of deputation. In the order of deputation it has been clearly provided that they shall have neither any right on the basis of earlier appointment in the Corporation nor can they draw salary on the basis of the service in

the Corporation because such deputation was made on certain specified terms and conditions.

It is also a matter of record such order of deputation of service of the petitioner and other similarly situated employees of the Corporation has merged with their subsequent order of absorption in government service again specifying the condition that they would be paid their salary as provided in the order of absorption. The petitioners, therefore, having accepted the terms and conditions of such absorption today cannot be permitted to turn around and now claim for payment of salary on the basis of the 4th Pay Revision Committee report and 5th Pay Revision Committee report of the State Government which was not admissible to the employees of the Corporation.

That being so, this application is wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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