

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18028 of 2010

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Dr.Vijay Kumar son of late Jugeshwar Prasad Sinha, resident of B/12, Nandan Homes Apartment, Behind S.B.I. Training Centre, Khajepura, Bailey Road, P.O. B.V.College, Patna-14, at present posted as Tutor Oral Surgery Department, Patna Dental College Hospital, Bankipur, Patna-4.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Government of Bihar, New Secretariat Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, New Secretariat Patna.
3. The Director-in-Chief, Health Services, Government of Bihar, New Secretariat Patna.
4. The Deputy Secretary, Department of Health, Government of Bihar, New Secretariat, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mahesh Narayan Parbat, Sr. Advocate
For the State : Mr. Harun Quareshi, AC to SC-18

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 30-01-2015

Heard Mr. Parbat learned Senior Counsel for the
petitioner and counsel for the State.

Two counter affidavit(s) have been filed on behalf of
the respondent State.

The petitioner filed the present writ application
commanding the respondents to grant him the benefit under the
Assured Career Progression Scheme w.e.f. 09.08.1999 that is the day
from which he became entitled for the said promotion. His further

prayer is to pay the arrears of salary and other benefits arising therefrom.

In the supplementary affidavit the petitioner enclosed the notification dated 21.11.2011 issued by the Government in the Department of Health whereby the petitioner was granted the benefits of 1st ACP w.e.f. 09.08.1999 and 2nd ACP w.e.f. 01.11.2005. Now the grievance of the petitioner is that the arrears payable to the petitioner on account of grant of such benefits in the revised scale have not been paid. The petitioner would be entitled to payment of differential amount. In the supplementary counter affidavit affirmed by the Deputy Director, Medical Education, it has been stated as follows in para 10:-

“10. That so far as for payment of arrear of salary is concerned in this regard it is humbly submitted that the same is being looked into by the department and it will be resolved as soon as possible in accordance with admissibility.”

It, thus, appears that the claim of the petitioner for payment of the monetary benefits on account of grant of two benefits under ACP is under active consideration of the Government. Once the promotion have been granted the respondents are obliged to pay the petitioner in the revised pay scale(s). He would, therefore, be entitled to differential amount. This Court, in that view of the matter,

is satisfied that the writ application can be disposed of by directing the respondents, particularly, the Principal Secretary, Department of Health and Medical Education, Govt. of Bihar (respondent no.2) to complete the consideration and to ensure payment/authorization of the admissible dues on account of arrears of salary on account of revision in the pay scale of the petitioner by virtue of notification dated 21.11.2011 (Annexure-5) as quickly as possible preferably within four weeks from the date of receipt/production of a copy of this order.

After the order was dictated Mr. Parbat submitted that the petitioner would also be entitled to consideration and grant of benefit under the Dynamic ACP. It is stated that for the said grievance petitioner be permitted to make a representation for consideration and disposal by the concerned respondent. The said prayer of the petitioner is allowed.

(Kishore Kumar Mandal, J)

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