

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.890 of 2013

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1. Upendra Kumar Verma S/O Late Dwarika Pd. R/O Village- Sandalpur, P.S.- Gopalpur, P.O.- Gopalpur, District- Nalanda, At Present Posted As Lecturer (Statistics And Demography) Acting State Demographer, State Family Welfare Bureau, Department Of Health, Bihar, Patna

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Health, Bihar, Patna
2. The Secretary, Family Welfare, Department Of Health, Bihar, Patna
3. The Principal Secretary, Department Of Finance, Bihar, Patna
4. The Secretary, Department Of Health and Family Welfare, Union of India, New Delhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arjun Pd. Keshri

For the Respondent/s : Mr. Rajiv Roy, GP 5

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 23-09-2015

Petitioner wants a mandamus upon the respondent authorities to pay him a different pay scale and at par with the post of Statistician –cum- Lecturer because it is his case that the parity between his pay scale and such post holders have been maintained for many a years till the last pay revision committee decided otherwise.

The law is well settled in this regard by the Hon'ble Apex Court in the case of *State of UP & others v. J.P.Chaurasia & others, reported in 1989 (1) SCC 121 and* in the case of *State of Haryana & another v. Haryana Civil Secretariat Personal*

Staff Association, reported in 2002 (6) SCC 72 that such pay fixation is the duty of the specialized body known as pay revision committees set up by the government. There are many a factors which goes into deciding the requirement of pay scale for holders of post. Court has no occasion to express its opinion or exercise any discretion on such matters.

The Hon'ble Apex Court in the State of U.P. vs. J.P.Chaurasia (supra) had observed as under :-

“18. The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should

normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration.”

In view of the above, the writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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