

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13459 of 2007

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Md.Zobair Ahmad, S/O Md. Moizur Rahman, resident of village & P.O. Bachauta,
P.S. Khagaria, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Principal Secretary to the Hon'ble Governor, Raj Bhawan, Bihar, Patna
3. The Deputy Secretary to the Hon'ble Governor, Governor's Secretariat, Bihar, Patna
4. The Principal Secretary, Finance Department, Bihar, Patna
5. The Deputy Secretary to the Govt. of Bihar, Cabinet Secretariat Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Karn
 Mr. Jyant Kumar Karn
For the Respondent/s : Mr. (GP5)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-01-2015

The petitioner was appointed as Urdu Typist in the Governor's Secretariat, Bihar, Patna in the scale of Rs. 680-15-890-15-965 on 9th July, 1987. He was given the scale of Rs.4000-6000 vide order dated 3rd July, 2001 issued under the signature of the Deputy Secretary, Governor's Secretariat, Bihar, Patna against the vacant Grade-D post of Stenographer. Subsequently, he was given the scale of Rs.4500-7000 with effect from 9th August, 1999 under First Assured Career Progression vide order dated 13th February, 2006.

The grievance of the petitioner is that he is entitled to the scale of Rs.5000-9000 with effect from 9th August, 1999 and the scale of Rs.5500-9000 with effect from 3rd July, 2001 and his claim in

the higher scale has wrongly been denied by the State Government vide order dated 13th August, 2007, as contained in Annexure-10 to the writ petition.

Learned counsel for the petitioner has submitted that the petitioner has submitted several representations in this regard to the Principal Secretary to the Governor but his appeal went unheeded.

A counter affidavit has been filed on behalf of respondent nos.2 and 3. The stand of the respondents is that the petitioner was appointed as Urdu Typist in the pay scale of Rs.680-965 on 9th July, 1987. He was adjusted against the vacant post of Steno-Typist, Grade-D, in the pay scale of Rs.4000-6000 with pay protection of his previous post. He was granted the benefit of first Assured Career Progression Scheme in the scale of Rs.4500-7000 with effect from 9th August, 1999 vide office order, as contained in Memo no.376 dated 13th February, 2006, issued from the office of the Governor's Secretariat, Bihar, Patna. The claim of the petitioner was examined by the State Government and it was found that he was not entitled for the scale of Rs.5000-8000 in lieu of Rs.4500-7000 on the ground that as per Rule 3(2) of the Bihar State Employees Conditions of Service (Assured Career Progression Scheme) Rules, 2003 (hereinafter referred to as "A.C.P. Rules, 2003"), where the scale of promotional post is not available in any particular cadre, then next

scale of financial upgradation will be as per scale described in the Schedule of the A.C.P. Rules. It has been submitted on behalf of the State that in the Governor's Secretariat there is no promotional post of Urdu Typist, as such, the petitioner was granted the benefit of first A.C.P. in the scale of Rs. 4500-7000 as described in the Schedule of the ACP Rules, 2003.

Regard being had to the submissions made on behalf of the respective parties, I find substance in the arguments advanced on behalf of the State. In absence of any promotional post, the petitioner cannot get higher scale in terms of Rule 3(2) of A.C.P. Rules, 2003 and he would only be entitled to the next scale of financial upgradation as per scale described in the Schedule of the A.C.P. Rules, 2003, which has already been given to the petitioner.

In that view of the matter, I find no merit in the present application. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

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