

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12418 of 2007

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Md.Sulaiman. son of Md. Rasul, resident of Azad Bagh Mathia Zirat, P.S.-
Chhatauni, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner-cum-Secretary, Minor Irrigation Department, Government of Bihar, Patna.
3. The Joint Secretary, Minor Irrigation Department, Government of Bihar, Patna.
4. The Chief Engineer (North), Tube Well Wing, Minor Irrigation Department, Muzaffarpur.
5. Executive Engineer, Tube Well Division, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Nath.Pathak

For the Respondent/s : Mr. Ajay Behari Sinha, S.C. 19

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 05-05-2015

Heard Mr. P.N. Pathak for the petitioner and Mr. Ajay Behari Sinha for the respondent State. Pleadings have been exchanged between the parties.

Precisely, the petitioner is raising a dispute with regard to his fixation of pay at different levels by the respondents. Writ petition was filed for a direction to quash the order dated 21.2.2007 whereby on grant of ACP, his pay was fixed in the scale of Rs. 4,000-6,000/- w.e.f. 9.8.1999. He also questions the legality of the order dated 18.6.2007 issued by the Executive Engineer, Tube Well Region, Motihari whereby his salary was fixed in the scale of Rs. 3200-4900/- on completion of 12 years of service and on grant of second A.C.P. in

the scale of pay of Rs. 4,000-6,000/- w.e.f. 9.8.1999. He also seeks a direction upon the respondents to grant ACP in the scale of Rs. 4500-7000/- on completion of 12 years and in the scale of Rs. 5,000-8000/- on completion of 24 years w.e.f. 9.8.1999.

In substance, the grievance of the petitioner is that his scale of pay as Electrician (I.T.I. holder) has not appropriately been fixed even on grant of ACP.

The case of the respondents is that his pay-scale was fixed contrary to the resolution of the Finance Department which was subsequently rectified and recovery was also ordered. In paragraph 5(vi), the respondents have stated as under:

“5(vi) It is to be mentioned here that the Finance Department vide resolution no. 4685 dated 25.06.2003 and revised resolution no. 1802 dated 23.03.06 notified the scheme of ACP that is effective from 09.08.99. This Scheme ensures at least two Financial Progression in the entire career of employees after completing 12 and 24 years of service respectively provided no other promotion were given to that person. The scale of next promotional post available in that cadre is admissible under this scheme as the pay scale of electrician is Rs. 3050-4590 from 01.01.96 hence he was sanctioned 1st and 2nd ACP in the next pay scale of Rs. 3200-4900/- and Rs. 4000-6000/- vide order dated 21.02.07 of Respondent no. 05. Accordingly the respondent Executive Engineer issued the pay fixation order dated 18.06.2007 that is again revised vide order no. 891 dated 05.11.07.”

In substance, the case of the respondents is that he was initially granted a higher pay scale inasmuch as recovery was also

directed to be made but subsequently he was granted the promotion after approval of the Finance Department. After perusing the pleadings on record and after hearing the parties, it appears the petitioner has not raised any such grievance of wrong fixation of pay on grant of benefit(s) under ACP before the concerned authority of the Government for consideration and disposal in accordance with law.

This Court, accordingly, disposes of the application by permitting the petitioner to make a detailed representation in this regard before the Principal Secretary, Minor Irrigation Department (wrongly impleaded as Commissioner-cum-Secretary, Minor Irrigation Department, Government of Bihar, Patna) (respondent no. 2) as well as the Chief Engineer, (North, Tube Well Wing, Muzaffarpur Minor Irrigation Department, Muzaffarpur (respondent no. 4) within four weeks along with a copy of the present order. No sooner the representations are filed, it is expected that both the respondents, acting in tandem, will consider and take appropriate decision in accordance with law as quickly as possible preferably within three months of such filing.

(Kishore Kumar Mandal, J)

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