IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4985 of 2012

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Shambhu Singh Son Of Late Pratap Singh Resident Of Village + P.O.-Jalalpur, P.S.-Tikari, District-Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department Of Human Resources Development, Government Of Bihar, Vikash Bhawan, Patna
3. The Director, Secondary Education, Department Of Human Resource Development, Government Of Bihar, Intermediate Council Building, Budh Marg, Patna
4. The District Education Officer, Gaya
5. The Accountant General, Bihar, Veer Chand Patel Path, Patna
6. The Accounts Officer, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioners : Mr. BISHNU KANT DUBEY
For the State : Mr. Jainendra Kumar Sinha, G.A.6
For Accountant General,Bihar: Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 21-01-2015

Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for the Accountant General, Bihar.

The petitioner seeks quashing of the letter dated 11.10.2011 (Annexure-8) issued by the office of the Accountant General, Bihar, Patna, by which it has been held that the pay of the petitioner has been correctly fixed and pension has been revised earlier.

The petitioner, who was appointed as an Assistant Teacher in Tekari Raj Higher Secondary School of the State Government and superannuated on 30.4.2003, was granted the first Time Bound Promotion with effect from 18.7.1988. After his retirement, his pension has been fixed and P.P.O. has been issued earlier. The petitioner moved for revision of pension and the P.P.O. and service book of the petitioner along with recommendation for pension revision was sent by the respondent authorities of the State Government to the Accountant General, Bihar with a request for revision in P.P.O. No.384515 of the petitioner. The same was rejected by letter dated 11.10.2011 of the office of the Accountant General, Bihar stating that in terms of Resolution No.6022 dated 18.12.1989 by paragraph No. 13 (iii) thereof, the petitioner having received a higher pay scale after completing 12 years of service in terms of the said provision any junior selection grade or first Time Bound Promotion benefit granted after 1.1.1986 is not to be taken into consideration for the purpose of pay fixation. Accordingly, the earlier fixation was held to be correct.

Learned counsel for the petitioner has sought to harp upon the fact that the pay fixation has not been correctly made and the benefit of the said pay fixation on the basis of the first Time Bound Promotion granted on 18.7.1988 ought to have been considered while fixing the pension of the petitioner. It is submitted that paragraph No.

13 (iii) of the Finance Department's Resolution No.6022 dated 18.12.1989 does not come in the way of such pay fixation.

Learned counsel for the Accountant General, Bihar, on the other hand, submits that due to inadvertent typographical error, the relevant provision of the Resolution dated 18.12.1989 has been mentioned as paragraph No. 13 (iii), whereas it is paragraph 13 (vi) which is actually involved in the matter and was the basis of the decision conveyed by the Accountant General, Bihar by the impugned letter.

It is pointed out that so far as paragraph No. 13 (iii) is concerned, it is related to such teachers, who had received promotion in the Junior Selection Grade or First Time Bound Promotion after Ist January, 1986 but before Ist March, 1986 which is evidently not the case of the petitioner since he had received the said benefit in July, 1988.

It is submitted that from the said provision of paragraph No. 13 (vi) of the said Resolution, it is evident that the existing facility of Time Bound Promotion or Selection Grade as per Resolution No.6022 dated 30.12.1989 shall cease to be applicable from Ist March,1986 in the existing pay scale and shall not be applicable at all for the purpose of pay fixation in revised scale with effect from Ist January, 1986. It is submitted on the basis of the clear mandate of the said provision in the Resolution dated 18.12.1989 that there was no question of any further pay scale revision or pension revision which has been fixed as per the correct pay scale.

On a consideration of the rival submissions of learned counsels for the parties, this Court finds sufficient force in the submission of learned counsel for the Accountant General, Bihar. It is evident from the provisions of paragraph No. 13 (vi) of the Finance Department Resolution No.6022 dated 18.12.1999 that the benefit of Time Bound Promotion and Selection Grade as per the earlier Resolution dated 13.12.1981 had ceased to be applicable from Ist March, 1986 onwards in the case of teachers and the pay fixation in the revised scale to be made with effect from 1.1.1986 was not to be made taking into consideration the said Time Bound Promotion and Selection Grade as they had ceased to be applicable from 1.3.1986.

Thus in the aforesaid view of the matter, this Court does not find any infirmity in the order dated 11.10.2011 of the Office of the Accountant General, Bihar.

The writ application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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