IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.587 of 2013

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Chhote Lal Paswan Son Of Mishree Paswan Resident Of At + P.O.- Sherpur, P.S.- Maner, District- Patna .... Petitioner

Versus

1. The Union Of India, Through The Secretary, Civil Aviation Department Government Of India, New Delhi
2. The Chairman, Airport Authority Of India, Rajeev Gandhi Bhawan, Safdargung, New Delhi
3. Executive Director (Er) Airport Authority Of India (Nad), Nscbi, Airport, Kolkatta
4. The Airport Director, Airport Authority Of India, Jai Prakash Narayan International, Patna .... Respondents

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Appearance :
For the Petitioner : Mr. Mritunjay Kumar, Advocate
For the Respondents : Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

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12 03-11-2015 The petitioner prays for quashing letter dated 27.10.2005, issued by the Airport Director, Jai Prakash Narayan International (JPNI) Airport, Patna, by which his claim for re-fixation of salary as well as pension has been rejected.

Petitioner retired on 30.9.2004 from the post of Traffic hand (Senior Attendant ATC) at Jai Prakash Narayan International (JPNI) Airport, Patna. Claim of the petitioner is based on the premises that his juniors namely, Sahdeo Paswan and Arvind Prasad who were similarly appointed as Airport attendant drew more salary than him. The petitioner joined as daily wages worker on 4.9.1964 at Jai Prakash Narayan International (JPNI) Airport, Patna. His service was regularized and was appointed as Aerodrome Attendant on 11.9.1989. Two other persons, namely, Sahdeo Paswan and Arvind Paswan

were also appointed as Aerodrome Attendant subsequently. The petitioner being senior to the above persons was granted promotion to the post of Traffic Hand (Senior Attendants ATC) with effect from 1.1.1996 in the scale of Rs.2550-3660 (corresponding revised scale with effect from 1.1.1997 Rs.5300-115-6680-135-9119). Petitioner's basic pay on 1.1.1997 was fixed at Rs. 6950/- and on 1.4.1998 the next higher scale of Rs. 5800-160-7720-180-10960 was granted on completion of 8 years continuous service in the same grade. On the other hand, Mr. Sahdeo Paswan and Arvind Prasad who were junior to the petitioner and were continuously working as Aerodrome Attendants were granted 40% up-gradation in the cadre of aerodrome attendants in the scale of Rs.5800-10960 with effect from 1.4.1996 in view of letter dated 1.3.2004 of Regional Headquarters, Kolkata.

Respondents have argued that the writ petition is fit to be dismissed as the same has belatedly been filed after more than eleven years of retirement of employee/petitioner.

Heard learned counsel for the petitioner and the respondents.

From the factual aspects noticed above, two things stand admitted. Firstly, that the petitioner was senior to Sahdeo Paswan and Arvind Prasad. At the end of the career, both Sahdeo Paswan and Arvind Prasad came to draw more pay in

terms of letter of Regional Headquarters, Kolkata, dated 1.3.2004 which provides for 40% up gradation of pay to persons who could not get promotion on account of lack of promotional post. The result was that though the aforesaid two persons were juniors to the petitioners, but drew more pay than him. It is not the case of the respondents that the aforesaid two persons got more pay for reasons personal to them or based on performance or merit.

It is a cardinal principle of service law that a senior, appointed in the same cadre, cannot draw lesser pay than his juniors. All efforts should be made to ensure compliance of the principle, otherwise, it would lead to anomalous situation, where a senior for no fault of his own is made to draw lessor scale than his junior.

In view of the settled norms, the case of the petitioner is accordingly remitted to respondent no.3 for reconsideration. One hopes and trusts that appropriate decision in the matter would be taken within a period of four months from the date of receipt of this order.

The writ petition is thus disposed of.

(Samarendra Pratap Singh, J)

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