

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5150 of 2014

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Awadhesh Kumar Dubey Son Of Late Raj Kumar Dubey Resident Of Village And Post Bharauly, P.S.- Narahi, District- Balia (U.P.) Presently Posted As Assistant Teacher, Indira High School, Central Jail Road, Buxar

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resource Development Department, Govt. Of Bihar, Patna
3. The Director, Secondary Education, Human Resource Development Department, Govt. Of Bihar, Patna
4. The Accountant General, Bihar, Patna
5. The Finance Officer-Cum-Secretary, Department Of Finance, Government Of Bihar, Patna
6. The District Accounts Officer, Buxar
7. District Education Officer, Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Advocate
Mr. Brishketu Sharan Pandey.

For the Respondent/s : Mr. Alok Kumar Rahi, A.C. to AAG 2.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 03-05-2016

Unnecessary dispute is being sought to be raised by the petitioner by filing the present writ application raising objection about correction in the pay scale to which he was entitled to and which had been done by the District Accounts Officer as far back as on 26.10.2002. After 12 years he wants that decision to be quashed because in his opinion a long passage of time may give him an advantage over the respondents of not being able to respond with adequate force and material, hoping that necessary files and details

may not be available to the concerned Officers.

Such a decision by itself may be good enough to dismiss the writ application and the Court is of the opinion that the petitioner cannot be permitted to raise question of re-fixation of his pay done in the year 2002 by moving the Court only in the year 2014.

Even without the above fact, the Court also wanted to be duly satisfied about the bona fide of the decision so taken by the District Accounts Officer to test the merit of the writ application.

The pay scale of the petitioner was required to be re-fixed with effect from 01.01.1996. This re-fixation was done in the background of resolution no. 660 dated 08.02.1999 of the Finance Department. There were certain pre-conditions which was laid down before such revision could be effected. One of the pre-conditions was that the petitioner was required to give option in Form D expressing his desire for such a revision. This was not done by the petitioner but still by over sight and mistake the pay revision was effected and recorded in the service book. Now the petitioner is trying to pass on Annexure – 2 as his option in Form D which it is not.

It is rightly pointed out by the learned counsel for the State that annexure-2 is not the option form in terms of Form D and even if the same is treated to be the option form for the sake of

argument, the date indicated in that form is 13.03.1999.

Obviously, annexure- 2 is a creation as an after thought to build a case for interference with the decision taken in the year 2002.

The analogy which the learned Senior Counsel for the petitioner is trying to draw is not at all available to him when the facts are not disputed that a revision in pay was effected despite non exercise of option by the petitioner in terms of resolution no. 660 of the Finance Department.

This writ application has no merit. It is, accordingly, dismissed for both the reasons.

(Ajay Kumar Tripathi, J)

Amin/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	04.05.2016
Transmission Date	