

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1365 of 2010

IN

Civil Writ Jurisdiction Case No. 10843 of 2010

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Anand Mohan Jha, son of late Shyam Sundar Jha, Presently residing at House of Mr. L.K. Mishra, 3/12 West Mahesh Nagar, P.S. – Patliputra, District – Patna.

.... Appellant

Versus

1. The Union of India, through the Secretary to the Government of India, Department of Economic Affairs, New Delhi.
2. The Joint Secretary (Banking and Insurance), Department of Economic Affairs, Ministry of Finance, New Delhi.
3. New India Assurance Company Limited through its Chairman cum Managing Director, New India Assurance Building, 87, Mahatma Gandhi Road, Fort, Mumbai-1.
4. The Chairman cum Managing Director, New India Assurance Company Limited, New India Assurance Building, 87, Mahatma Gandhi Road, Fort, Mumbai-1.
5. The General Manager, New India Assurance Company Limited, New India Assurance Building, 87, Mahatma Gandhi Road, Fort, Mumbai-1.
6. The Assistant General Manager, New India Assurance Company Limited, New India Assurance Building, 87, Mahatma Gandhi Road, Fort, Mumbai-1.
7. The Regional Manager, New India Assurance Company Limited, Regional Office, B.S.F.C. Building, 6th to 7th Floor, Frazer Road, Patna – 800 001.
8. The Manager, New India Assurance Company Limited, Regional Office, B.S.F.C. Building, 6th to 7th Floor, Frazer Road, Patna – 800 001.

.... Respondents

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Appearance :

For the Appellant : Mr. Sanat Kumar Mishra, Advocate

For the Resp. no.3-8 : Mr. Durgesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 25-04-2016

Heard learned counsel for the parties.

2. The writ petitioner, who is appellant in this Intra-Court Appeal, has challenged the non grant of revised pay scale to him. The learned Single Judge, noticing that the Pay Revision Notification dated 21.12.2005 (Annexure-3 to the writ petition) stipulated that those persons who had retired earlier would not get the benefit of Pay Revision, dismissed the writ petition. The writ petitioner/appellant had challenged that such a provision would be arbitrary, if not unreasonable.

The facts are not in dispute. The writ petitioner/appellant, w.e.f. 12.03.2004, accepted voluntary retirement under the provisions of the General Insurance Employees' Special Voluntary Retirement Scheme, 2004. Having retired, a notification was issued on 21.12.2005 revising the pay scales. If it was prospective, then, there was no cause for the writ petitioner/appellant to be aggrieved, but this was made effective retrospectively from 01.08.2002 i.e. two years prior to petitioner seeking voluntarily retirement. Thus, the writ petitioner/appellant was deprived of the benefits of this Pay Revision on the ground that this notification itself provided that this benefit would not be

given to persons who had already sought voluntary retirement.

On the face of it, we find such a provision denying Pay Revision to people who had retired, while granting it to people who are still in service to be wholly irrational and arbitrary. On 01.08.2002, that is from the date, when this notification is made effective for the purposes of Pay Revision, writ petitioner/appellant and others were all similarly circumstanced. Therefore, to treat them differently would be violative of Article 14 of the Constitution.

Article 14 of the Constitution clearly contemplates that equal cannot be treated unequal and unequal cannot be treated equal. Here, persons, who were equally situated on 01.08.2012, but for some subsequent event, the two are being differentiated with no rationality therein. We, thus, cannot apply the proviso to Clause 3 of the Notification dated 21.12.2005, as it is irrational, arbitrary and suffers from hostile discrimination and are violative of Article of 14 of the Constitution.

We, therefore, set aside the judgment of the learned Single Judge and allow the writ petition and this appeal, and direct the New India Assurance Company



Limited to grant full benefit of the retrospective pay revision to the writ petitioner/appellant within a period of three months from today.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	
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