

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4206 of 2011

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Gopal Krishna Prasad, son of Late Bisheshwar Prasad resident of village Garjaul
Paharpur P.O. Garjaul P.S. Mahua District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Patna
2. Bihar State Power Generating Company Ltd Vidyut Bhawan baily Road, Patna Bihar
3. Bihar State Power Transaction Company ltd. Vidyut Bhawan, baily Road, Patna Bihar
4. The General Manager –cum- Chief Engineer, Barauni Thermal Power Station Barauni District Begusarai
5. South Bihar Power Distribution Company Ltd.
6. The General Manager –cum- Chief Engineer Muzaffarpur Thermal Power of Kanti (Muzaffarpur)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Singh
For the Respondent/s : AC to GP 14
Mr. Ranjit Sinha

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 21-04-2016

Heard learned counsel for the petitioner , learned AC to GP

No. 14 and Sri Ranjit Sinha, learned counsel, who has appeared on behalf of the respondent no. 2 to 5/ Bihar State Power Generating Company Ltd.

The petitioner, who retired on 1.11.2010 has filed the present writ petition in the month of March, 2011 with a prayer to direct the respondents to pay him the pay -scale of Safety Officer for the period from 14.5.1993 to 31.7.2008 and further grant pay -scale of Chief Safety Officer from 1.8.2008 to 31.10.2010.



Short fact of the case is that the petitioner while was functioning as Assistant Controller was given the charge of Safety Officer vide Annexure - 7 to the writ petition. While the petitioner was functioning as Assistant Controller he was asked to function as Safety Officer at M.T.P.S. till further order. It has been claimed that petitioner continuing as Safety Officer finally superannuated on 1.11.2010. However, the petitioner was not given pay scale of Safety Officer. It is admitted case that earlier there were no specific sanctioned post of Safety Officer, however, finally vide Memo No. 91 dated 31.1.2003 in pursuance of the Board's resolution four posts of Safety Officer in the pay -scale of Rs. 7,8,50- 13,6,50/- was created, two in Barauni Thermal Power and two in Muzaffarpur Thermal Power Station. It has been pleaded that of -course earlier there were no separate pay- scale of Safety Officer but from the year 2003 once specific pay -scale was prescribed for the post of Safety Officer and petitioner continued to function as Safety Officer at least from the date of Annexure - 12 the petitioner was entitled to get the pay -scale of Safety Officer which has not been given to the petitioner.

Learned senior counsel appearing on behalf of the petitioner has argued that once the petitioner was asked to function as Safety Officer and he continued to discharge the duty as Safety

Officer certainly he was entitled to get the pay -scale of Safety Officer which has not been done in the present case and as such, the petitioner is entitled to get the pay -scale of Safety Officer and the respondents are required to pay the arrear of salary after calculating the same and grant consequential benefits.

Sri Ranjit Sinha, learned counsel for respondent /Bihar State Power Generating Company Ltd., opposing the prayer of the petitioner has firstly argued that for discharging duty as Safety Officer additional two increments were provided and only after willingness shown by such Assistant Controllers they were asked to function as Safety Officer. He has specifically referred to paragraph no. 9 of the counter affidavit filed on behalf of the respondents on 3rd November 2015. He further submits that even though after creation of the post of Safety Officer vide Annexure - 13 Series i.e. a notification contained in Memo No. 843 dated 22.7.2003 the post of Assistant Controllers was re-designated as Safety Officer in the same scale of pay. He submits that in the notification dated 22.7.2003 name of the petitioner finds place at serial no. 2. He submits that after notification dated 22.7.2003 at least the petitioner was aware that what would be the pay -scale of the petitioner and he continued to discharge his duty in the same scale of- course as Safety Officer. Now only after retirement the petitioner has approached this Court

for claiming pay -scale of Safety Officer. According to learned counsel for the respondents petitioner may not be allowed to raise any dispute at such belated stage.

Learned senior counsel for the petitioner in reply submits that since in the present case the petitioner has suffered due to inaction of the respondent/ Board, the petitioner's case may not be considered for rejection on the ground of delay itself.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that though in the year 1993 the petitioner along with some other Assistant Controllers were asked to discharge the duty as Safety Officer, at the relevant time there was no sanctioned post of Safety Officer. For discharging the duty of Safety Officer, as stated in the counter affidavit, besides pay -scale two separate increments were provided and only after accepting willingness from the concerned Assistant Controllers they were asked to discharge the duty of Safety Officer in the same scale with additional two increments. Moreover, in the Board till issuance of Annexure - 12 there was no sanctioned post of Safety Officer. By Annexure - 12 pay scale of Safety Officer was prescribed but immediately thereafter while asking the petitioner and other three similarly situated Assistant Controllers their post of Assistant Controllers were simply re-designated as Safety Officer,

which was in the same pay scale. If for the time being it is assumed that petitioner was denied the pay scale of Safety Officer, as per Annexure - 12 the same cause of action arose only after issuance of notification contained in Memo No. 843 dated 22.7.2003 (Annexure - 13 Series). After the said notification the petitioner continued to work in the same pay -scale and virtually he superannuated in the same scale and as such, after superannuation and after lapse of more than seven years the petitioner may not be allowed to raise any dispute. It is also not in dispute that for discharging duty of Safety Officer the petitioner and others were provided two additional increments and only thereafter they discharged their duty. Accordingly, the Court is of the opinion that at this stage such dispute may not be allowed to be re-opened. I do not find any ground to pass any favourable order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
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