IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12294 of 2013

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Mahesh Prasad Mishra Son Of Late Gayatri Prasad Mishra Resident Of Village-Haraji, P.S.- Awatarnagar, District- Saran, Retired On 30.04.2012 From The Post Of Commercial Taxes Officer, Investigation Bureau, Bihar, Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Bihar, Main Secretariat, Patna
3. The Principal Secretary, Finance Department, Bihar, Main Secretariat, Patna
4. The Officer In-Charge, Finance (Personal Claims Fixation Cell) Department, Bihar, Old Secretariat, Patna
5. The Commissioner-Cum-Principal Secretary, Commercial Taxes Department, Bihar, New Secretariat, Patna
6. The Accountant General, Bihar, Birchand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarnath Mishra, Adv.
For the State	:	Mr. S. Rana Ahmad, Sr. Adv., AAG-V
		Mr. Vishwambhar Prasad, AC to AAG-V
For the A.G., Bihar	:	Mr. Satyendra Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-09-2016

Heard learned counsel for the petitioner and counsel for the State.

In this case, the petitioner is seeking relief of quashing the paragraph no.4 (Ka) of the letter dated 17.8.2012 (Annexure-9) which has been issued in view of the two options provided in paragraph no. 6.1 of Appendix-1 to the resolution dated 14.7.2010 (Annexure-8) in respect of fixation of pay consequent upon sanction of the first assured career progression in the higher scale of pay from or after 1.1.2006 but before 1.1.2009.

In nutshell, a claim has been made that while granting A.C.P. as well as fixation in a substituted scale after enforcement of 6th Pay Revision Committee Report, he has wrongly been placed, has claimed that he is entitled to the first A.C.P. after completion of twelve years on 1.1.2006 and, later on, on 1.4.2007, after enforcement of the 6th Pay Revision, the pay would be revised and, accordingly, second ACP would be fixed taking care of enforcement of 6th P.R.C. but the letter dated 17.8.2012 (Annexure-9) is completely prejudicial to the interest of the petitioner. Learned counsel for the petitioner submits that Annexure-9, which has been issued by the Finance Department, is not applicable to the officer category of the employees of the State Government rather is applicable to the clerical staffs only.

Per contra, learned counsel for the State has submitted that by this letter dated 17.8.2012 (Annexure-9) resolved the anomaly that had cropped up in fixation of pay and its effect in granting ACP, the Government had, by way of abandon caution of clarification, has issued a letter dated 17.8.2012, provided two options being Option-Ka and Option-Kha and whoever opted for respective option, their scale of pay has been fixed in that manner. The petitioner has raised the grievance of wrong fixation of his pay and the petitioner has already superannuated from service, it will be in the interest of justice that the petitioner should file a detailed representation before the Principal

Secretary, Finance Department, Bihar. If the petitioner files a representation before the aforesaid Authority, the same should be disposed of within a period of four months from the date of filing of the representation by the petitioner.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	5.10.2016
Transmission Date	NA