

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5900 of 2014

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1. Benkteshwar Upadhyay Son Of Late Yaduvansh Upadhyay Resident Of Dr. Narayan Prasad Lane, Mohalla Kazoor Banna, Police Station Sultanganj, P.O. Mahendru, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary Department Of Human Resources Development (Higher Education), Govt. Of Bihar, Patna
2. Patna University through Its Registrar, Ashok Rajpath, Patna
3. Vice-Chancellor Patna University through its Registrar, Ashok Rajpath, Patna
4. Registrar, Patna University through Its Registrar, Ashok Rajpath, Patna
5. Finance Officer, Patna University through its Registrar, Ashok Raj Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Shyama Prasad Mukherjee, Sr. Advocate Mr. Parwej Khan
For the State	:	Mr. Mahtab Alam, AC to SC 3
For the University	:	Mr Digvijay Singh Mr B.J.Jha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 13 -07-2016

Annexure- 3, dated 19.4.2007 issued under the signature of the Registrar of Patna University has been challenged in the present writ application. By virtue of this order, the pay scale of the petitioner has been re-revised and reduced. Since the revision has the effect of lowering the pay scale, petitioner is aggrieved.

2. As per the averment in the writ application, petitioner was initially appointed as a Junior Laboratory Assistant with effect from 1.8.1970. He was initially posted at PMCH but was later transferred in the month of May 1971 to Science College. As per him, vide letter



no.3669 dated 26.3.1992, his service was also confirmed with effect from 30.4.1971. Petitioner was allowed a pay scale of Rs.200-300, as per notification dated 15.3.1973. Subsequently, on the recommendation of the 3rd Pay Revision Committee, the pay stood revised to Rs.340-490. The pay scales subsequently stood revised from time to time as and when Pay Revision Committee recommendations came to be notified.

3. According to the petitioner, as per pay revision recommended by the UGC with effect from 1.1.1996, petitioner's pay was fixed as Rs.5000-8000. Annexure- 2 has been annexed in support of the above fact. However, vide decision dated 19.4.2007 (Annexure- 3), the pay scale of the petitioner was revised to Rs.4000-6000, which has the effect of lowering the pay scale and having consequences for the petitioner.

4. Counter affidavit has been filed on behalf of the University as to the reason behind issuance of Annexure- 3. The stand of the University in paragraph 7 is that as per the State Government notification and sanction of the 5th revised pay scale effective 1.1.1996, the salary structure of Junior Laboratory Assistants and Laboratory Assistants (I.Sc.) was fixed as Rs.4000- 6000.

5. The petitioner was appointed on the post of a Junior Lab Assistant having an I.Sc. Degree. No doubt, during the period of



service, he obtained a B.A. Pass Course degree in the year 1982 but the required educational qualification for the pay scale which the petitioner is looking for, prescribed in the notification even by the State Government, is a B.Sc., which the petitioner never had. He cannot demand benefit of a Graduate pay scale on the basis of a B.A. Pass Course degree.

6. The University in its counter affidavit has annexed Annexure- D, which is the notification of the State Government, which clearly indicates the pay scale, which has been made available to holders of such post. Since by oversight and omission the pay scale of Rs.5000- 8000 was extended to the petitioner, the same had to be corrected by the authorities.

7. Another aspect of significance is that Annexure- 3 has been in existence since 19.4.2007 and it is only in the year 2014 petitioner decides to challenge the said notification after a delay of almost seven years with no clear reason why such delay has taken place. What is of significance is that the petitioner retired on 31.12.2008, therefore, Annexure- 3 was passed when he was very much in service and he had ample opportunity to agitate the matter either before the authorities or the Court.

8. The Court, therefore, does not find any reason or justification emerging from the petitioner to interfere with Annexure-

3, especially when an employee is entitled to the pay scale, which is commensurate with the notification in place for such employees.

Writ application, therefore, is dismissed.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
CAV DATE	22.6.2016
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