

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3165 of 2014

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1. Baliram Singh Son Of Late Parsuram Singh Resident Of Village Pararia, Police Station Barhara, District Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Finance Department, Government of Bihar, Old Secretariat Building, Patna - 800015
3. The Collector, Buxar
4. The Treasury Officer, Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ebrahim Kabir
Mrs Shruti Sinha
Mr. Kumar Rajeev

For the Respondent/s : Mr. Gautam Bose, AAG 8

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-04-2016

Petitioner wants a direction upon the respondent authorities to pay him salary on the pay scale of Rs.5000- 8000 instead of Rs.4000- 6000 granted on the recommendation of the 5th Pay Revision Committee with effect from 1.1.1996. He is looking for corresponding replacement scale even in 6th Pay Revision Committee recommendation. In addition to that, he is looking for benefit of Assured Career Progression with effect from 9.8.1999, the date from which the ACP Scheme took effect.

Basic facts are not a matter of dispute that petitioner was a compassionate appointee on the post of a Clerk in the Treasury at Buxar in the erstwhile district of Bhojpur. He was appointed under the orders of the Director, Treasury. He has been working and

drawing salary granted to him from time to time but he pleads discrimination in matter of the pay scale which he is begetting and what the Treasury Clerks have been given, which is Rs.5000- 8000.

The claim of the petitioner is devoid of merit for the simple reason that the petitioner was appointed as a Clerk in the Treasury and he is not a Treasury Clerk. Treasury Clerk is a different cadre and they have always got a different pay scale vis-à-vis the present petitioner, who was appointed on compassion as a Clerk in the Treasury and not a Treasury Clerk. This is being stated at the cost of repetition. Naturally, since the Treasury Clerks have a higher pay scale and the word 'Clerk' is common in both the description of the post, the petitioner is eyeing the higher pay scale of the Treasury Clerks instead of pay scale which he has been extended by the State authorities by virtue of holding the post of a Clerk in the Treasury.

Since the two posts are not equitable, therefore, the pay scales cannot be the same and there is no discrimination in the pay which the Treasury Clerks are drawing vis-à-vis the petitioner being a Clerk in the Treasury, such prayer is, therefore, required to be rejected.

The stand of the State is in similar direction. They have brought evidence and material to show in support of what has been recorded in the earlier part of the order.

However, the claim of the petitioner for benefit of ACP has not been seriously disputed by the respondents but their stand is that the ACP will also require to be given on the basis of the pay scale to which the petitioner was entitled to, which was Rs.4000- 6000 with effect from 1.1.1996 and the corresponding revision made and implemented as per the 6th Pay Revision Committee.

The writ application with regard to prayer for the pay scale is rejected. However, a direction is issued upon the respondent authorities that the claim for grant of ACP of the petitioner will be considered on the basis of the pay scale in place or the replacement scale recommended in the 6th Pay Revision Committee recommendation and the same should accrue provided there is no other disqualification or impediment suffered by him in terms of the ACP Rules applicable to such case. Such a decision should be taken within four months from the date of production of a copy of this order.

Writ is disposed of in terms of the above.

(Ajay Kumar Tripathi, J)

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