

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.920 of 2014

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1. Dr. Dharmendra Sinha Son Of Late Raghunath Singh Secretary General, Bihar Veterinary Association, Resident Of Office At Vidyapati Marg, P.S. - Kotwali, District - Patna
2. Dr. Janardan Prasad Singh, Life Member Of Bihar Veterinary Association Son Of Late Bachhi Lall Singh Resident Of Flat No. 204, Maa Vidya Washing Complex, Sheikhpura, P.S - Sastrinagar, District - Patna
3. Dr. Arvind Kumar, Life Member Of Bihar Veterinary Association Son Of Late Sukha Singh Resident Of Flat No. 203, Maa Vidya Washing Complex, Sheikhpura, P.S. - Sastrinagar, District - Patna
4. Dr. Vijay Kumar Jha, Life Member Of Bihar Veterinary Association Son Of Late Devi Kant Jha Resident Of Flat No. 206, Officer Hostel , Bailey Road, P.S. - Kotwali, District - Patna
5. Dr. Kumod Ranjan, Treasurer Bihar Veterinary Association Son Of Rabindra Kumar Singh Resident Of Chitragupt Nagar, Bank Mains Colony, Kankarbagh, P.S. - Patrakar Nagar, Kankarbagh, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar, Through the Chief Secretary, Government of Bihar, Main Secretariat, Patna-1
2. Principal Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna - 1
3. Joint Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna - 1
4. Additional Secretary, Finance (Resources)-Cum-Secretary Expenditure, Finance Department, Government Of Bihar, Main Secretariat, Patna - 1
5. Principal Secretary General Administration Department, Government of Bihar, Main Secretariat, Patna - 1
6. Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna
7. Accountant General, State Of Bihar, Patna
8. Director, Ministry Of Finance, Department Of Expenditure, Government of India, New Delhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Advocate
Mr R.N.Mukhopadhaya

For the State : Mr. Avinash Kumar, SC 30
Mr Manoj Kumar Sinha, AC to SC 30

For the AG : Mr Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-02-2016

The Bihar Veterinary Association has moved the High

Court in the present writ application both in representative capacity as

well as by including certain members also in the writ application. The issue is entitlement of the doctors of the Association as to what should be quantum of the Non Practicing Allowance which should accrue to them after the 6th Pay Revision recommendation.

2. There is no dispute that as per the recommendation of the 5th Pay Revision Committee of Central Government, the State Government too decided to extend the benefit of Non-Practicing Allowance (NPA), which was subsequently withdrawn and it led to a series of litigations, which culminated into a decision to ultimately grant the benefit of NPA from 15.4.2000, as would be evident from the notification dated 11.8.2011 which is Annexure- 20/1 to the writ application. The notification itself indicates the background which led to the said decision.

3. The status with regard to grant of NPA on the basis of recommendation of the 5th Pay Revision Committee is no longer an issue. It is also of significance to note that looking at the pay scale, which was available to the Cabinet Secretary then, it was also decided that all told including NPA, a Veterinary Doctor will not take home more than Rs.29500/- salary which included NPA.

4. With effect from 1.4.2007, the notification of the 6th Pay Revision Committee introduced by the Central Government was adopted by the State of Bihar. Though the 6th Pay Revision Committee was said to be effective from 1.1.2006 but the State of

Bihar decided to extend benefit of monetary kind only from 1.4.2007.

5. The stand of the learned senior counsel for the petitioners is that the Central Government Pay Revision Committee did recommend grant of NPA as part of the recommendation and it is his case that the State of Bihar adopted the said recommendation in toto and, therefore, the NPA should be continued to be granted. In addition to that, the ceiling of Rs.29500 imposed earlier by the Department of Finance, would be required to be raised to Rs.85,000 keeping in mind the fact that the pay of Cabinet Secretary has also been jacked up to Rs.90,000.

6. On the surface the submission of the learned senior counsel for the petitioners seems to be logical as well as reasonable but there are other facets to the dispute which has been highlighted by the counsel representing the respondent State of Bihar.

7. There is a series of exchange of pleadings in the present writ application. From those pleadings and notifications, it is the stand of the State counsel that the issue of grant of NPA to Doctors including the Veterinary Doctors was not adopted or implemented in toto on the basis of the recommendation of the 6th Pay Revision Committee of the Central Government. The State authorities decided to set up a committee to look into the recommendations and come out with their suggestion which may be adopted even by the State of Bihar. The three member committee, which went into the



issue, did recommend that NPA could be extended to certain set of Doctors but so far as the Veterinary Doctors are concerned, the committee's recommendation was otherwise. That recommendation of the committee has now been accepted and notified in terms of a notification dated 13.1.2016, which is Annexure- B to the 3rd supplementary counter affidavit of respondent no.2.

8. The emphatic submission of the learned counsel for the State is that the State Government as a conscious decision has decided not to extend the benefit of NPA to the Veterinary Doctors including various Doctors working in the State of Bihar. Merely because the notification has been issued in the year 2016, it does not mean that it has to be prospective in nature. This notification is only certifying the position that the Government was not willing to extend the benefit of NPA to the members of the Association even though the 6th Pay Revision Committee of the the Central Government did propose so.

9. The recommendation of the Central Government is not binding upon the State Government in toto or entirety. A decision has to be taken even by the State Government as to which recommendation and benefits recommended by the Central Government is required to be accepted or extended even in that particular State. The local service conditions as well as the financial conditions of each and every State is integral to the acceptance of such

recommendation.

10. There is no recommendation for payment of NPA under the 6th Pay Revision Committee recommendation of the State of Bihar. The non- grant of NPA has been notified as per the notification contained in Annexure- B annexed with the 3rd supplementary counter affidavit. It relates to the recommendation of the 6th Pay Revision Committee, therefore, the basic submission of the learned senior counsel that mandamus is required to be issued to jack up the ceiling, which was earlier imposed at Rs.29500, is a unwarranted kind of expectation to have because the entitlement of NPA is the first basic issue which does not accrue in favour of these petitioners.

11. If the State Government is not willing to extend the benefit of NPA, there will be no occasion to give a direction to break the ceiling of Rs.29500, which was in relation to the recommendation of the 5th Pay Revision Committee or to order payment of NPA contrary to the policy decision of the State.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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