

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.70 of 2015

=====

Rabindra Nath Verma (Retired I.A.S.) son of Late Hardeo Sahai, Resident of 5-A/19, Veer Shivaji Path, North Sri Krishna Puri, P.S. S.K. Puri, Dist. Patna- 13

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training), New Delhi
2. The Accountant General (A & E), Bihar, Patna.
3. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
4. The Principal Secretary, Samanaya Prashashan Bibhag, Government of Bihar, Old Secretariat, Patna.
5. The Special Secretary, Samanaya Prashashan Bibhag, Government of Bihar, Old Secretariat, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Ravindra Kumar Shukla, Advocate
For the Respondents-State of Bihar	:	Mr. R.K. Priyadarshi, S. C. -32
For the respondent No.2	:	Mr. Madhuresh Prasad, Advocate
For the respondent No.1	:	Mr. Ravinder Kumar Sharma, C.G.C.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 24-06-2016

The order dated 5th of November 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short, 'the Tribunal') is subject matter of challenge in the present writ petition.

The petitioner has claimed that his pay should be fixed in the cadre of Indian Administrative Service (for short, 'IAS) corresponding to the pay scale of Rs.4800-150-5700 as on 01.01.1986 and also to grant extension in service from 01.11.1988 to 31.03.1989 to enable him to get full pension of 33 years of service.



The claim of the petitioner is based upon the Circular of the Government of India, Ministry of Personnel Public Grievances & Pension (Department of Personnel & Training) dated 4th August, 1989 which contemplates that benefits of revision in the scales of pay of the State Civil Service should also be made available to the promotee IAS Officers during their period of probation.

Earlier the petitioner filed OA No.743 of 2010 before the Tribunal which came to be decided on 16th of January, 2012. The Tribunal disposed of the Original Application with a direction to the concerned respondents to examine the case of the applicant for grant of extension in terms of Rule 16 of All India Service (Death-cum-Retirement Benefits) Rules, 1958. It is thereafter; the claim of the petitioner for extension of service was examined and declined by the State Government on 30th of January, 2013. It is the said order which was challenged by the petitioner before the Tribunal which challenge has remained unsuccessful. It is thereafter, the petitioner challenged the order of the Tribunal before this Court in the present writ petition.

The entire claim of the petitioner is based upon the revision of pay with effect from 01.01.1986 of the State Civil Service. The petitioner was not a member of State Civil Service on



01.01.1986 as he became member of the IAS on 06.04.1985. His pay was rightly fixed corresponding to pay being drawn by him as a member of the State Civil Service. Subsequent revision in the pay scale of State Civil Service will not be material for fixation of the salary of the petitioner as the relevant date for pay fixation is the date when he got into IAS cadre. Once his pay was fixed in the cadre of IAS, the subsequent revision has to be on the basis of the Rules applicable to the IAS and not dependent upon the pay revision of the State Civil Service. There is no illegality to the pay fixation as a member of IAS from the day he was appointed. The entire claim is based upon the revision of pay scale of State Civil Service with effect from 01.01.1986 which benefit is not available to the petitioner since he became member of IAS prior to 01.01.1986.

The other argument of learned counsel for the petitioner is that the petitioner is entitled to extension of service of three months at par with extension of service granted to his immediate junior to earn the maximum pension. The extension of service is not a right which can be claimed in an original application. The extension of service is a discretion vested with the employer. The petitioner retired on attaining the age of superannuation. There is no inherent right with the petitioner so as to seek extension in service after attaining the age of superannuation.

Consequently, we do not find that the petitioner is entitled to extension in service only because another person has been granted extension in service. Though we are not examining the legality of the extension of service granted to the junior, i.e. Tarkeshwar Prasad, but even if the discretion has been exercised wrongly in favour of one person that will not confer any right in the petitioner to claim parity. There cannot be any parity in the illegality.

In view thereof, we do not find any merit in the present writ petition. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	28.06.2016
Transmission Date	