

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4523 of 2013

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1. Brahmeshwar Singh Son Of Late Jagdish Singh Resident Of Village - Mahaddichak, P.O. - Madhepur, P.S. - Bihta, District - Patna

.... Petitioner/s

Versus

1. The Union Of India Through The Chairman Ministry Of Railway, Rail Bhawan, New Delhi
2. Member (Mechanical), Railway Board, New Delhi
3. The Managing Director, Bharat Wagon And Engineering Company Limited A Company Registered Under The Company's Act, Maurya Lok, Dak Bunglow Road - 800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar

For the Respondent Nos.1&2 : Vijay Kumar Sinha

For the Respondent No. 3 : Mr. Raj Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 18-02-2016 Heard learned counsel for the petitioner, learned counsel for the Railway and learned counsel for the Bharat Wagon & Engineering Company Limited.

In the present case, the petitioner is seeking relief that his pay scale should be fixed in terms of Office Memorandum dated 25.06.1999 with effect from 01.01.1997.

The petitioner has already superannuated from the service in the year 2007. The claim has been made that the

petitioner should be given the benefit of difference of salary on account of implementation of revision of pay scale.

It is a fact that the Company has not implemented this pay scale for the executives as well as for the Union employees.

In the Counter Affidavit filed by the Bharat Wagon & Engineering Company Limited, it has been stated that the financial condition of the Company is poor and the Company has accumulated loss to the tune of Rs.64 crores not in a position to implement the revised pay scale and the matter is pending before the B.I.F.R. In paragraph No.3 of the said Counter Affidavit it has been stated that Railway Board has accorded approval on 22.01.2016 and engaged M/s. Rites Limited for preparation of revival/rehabilitation plan. It has also been stated that it is expected that the revival plan will be placed before the B.I.F.R. within 4 to 5 months and tried to obtain the order from the B.I.F.R., Railway Board and the Cabinet.

As it is clear that the Company is a sick unit running loss as per the Counter Affidavit that the Company is not in a position to pay the revised pay scale having no sufficient funds, this Court cannot issue a writ of mandamus for giving direction for the payment of revised pay scale but it is also important to note

that similar type of Industry namely Burns Standard Company, situated at Barhampur and Hawrah is also Public Sector Undertaking are paying the revised pay scale to its employees though it was running in continuously loss for three consecutive years, which is clear from letter dated 18.07.2012 (annexure-4 of this writ application), showing releasing of funds in favour of the employees of the Company, applicable to different class of employees including the executives.

In such view of the matter, let this matter be placed before the Railway Board to decide the issue with regard to paying the revised pay scale to the employees of the Bharat Wagon & Engineering Company Limited, situated at Mokama as well as Muzaffarpur. It is expected that the Railway Board will examine the case of employees of the Company with respect to payment and will also take a positive step for placing the revival plan of unit before the B.I.F.R. as has been stated in the Counter Affidavit.

With these observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

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