IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9978 of 2014

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1. Raj Kumari Jha W/o - Late Nawal Kishore Jha R/o - House No. 226, Patliputra Colony, Patna - 13.

.... Petitioner/s

Versus

1. Union of India.
2. Secretary, Personnel, P.G. and Pension, Department of Pension and Pensioner's Welfare, 102 North Block, New Delhi - 110001.
3. State of Bihar.
4. Principal Secretary, General Administration Department, Government of Bihar, Patna.
5. Additional Secretary, General Administration Department, Government of Bihar, Patna.
6. Under Secretary, General Administration Department, Government of Bihar, Patna.
7. Treasury Officer, Patna Sichai Bhawan Treasury, Patna.
8. Accountant General A and E, Bihar, Birchand Patel Path, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	None.
For the State	:	Kumar Alok (SC-8)
For AG	:	Kumar Priya Ranjan (SC)
For UoI	:	Anshuman Singh (CGC)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 05-02-2016

Heard.

The petitioner claiming herself the widow of the employee has filed the writ application for payment of enhanced family pension after fixing the pay-scale of her husband in Pay Band-4 with grade pay of 8700/- as applicable to Joint Secretary or equivalent post. The husband of the petitioner was a Member of the Bihar Administrative Service and was later promoted to the IAS cadre and served as Joint Secretary. He retired in the year 1976.

A counter affidavit has been filed on behalf of the State respondent and two counter affidavits have been filed on behalf of the Accountant General. There is no rejoinder to the supplementary counter affidavit filed on behalf of the respondent no. 8. In paragraph 5 of the supplementary counter affidavit, the Accountant General has explained the matter in dispute in the following manner:

> *That in reply to the averments made in paragraph nos. 2, 5, 7, 8, 9 and 10 it is submitted that the husnand of the petitioner was an officer of State Civil Services and inducted to IAS w.e.f. 21.06.1976. He was entitled to pay @ Rs. 1900/- in the Sr. time Scale of IAS (Rs. 1200-2000), subsequently after revision of pay scale the aforesaid Sr. Time Scale has been revised to Rs. 3200-4700 w.e.f. 01.01.1986, Rs. 10650-15850 w.e.f. 01.01.1996 and in P.B.-3 (15600-39100) + G.P. 6600 w.e.f. 01.01.2006 in light of 4th, 5th and 6th C.P.C., respectively. As such his family pension has been revised in P.B.-3+G.P. 6600.*
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> *It is further submitted that there is no specific pay scale entitled to an IAS officer serving as Director or Special/additional/Joint/Deputy Secretary because these are non functional posts for an IAS Officer in the State Service. On these posts an IAS officer having pay in pay band-3+GP 5400 to pay band-4+GP-8700 can serve. Therefore, it cannot be said that the corresponding pay scale of Joint Secretary and equivalent post is Rs. 37400-67000 P.B.-4+8700 GP. It will be relevant to mention here that w.e.f. 01.01.1996 pay structure of an IAS officer is fixed in the following manner:-*
> *(a) Basic Grade (8000-13500)*
> *(b) Senior time Scale (10650-15850)*
> *(c) Junior Administration Grade (12750-16500)*
> *(d) Selection Grade (15100-18300)*
> *(e) Super Time (18400-22400)*
> *(f) Above Super Time (1) (22400-24500) & Above Super*

Time (2) Rs. 26000 fixed.

As stated above the pay of late Jha falls under the revised pay scale of Rs. 10650-15850 as such his pension has been correctly revised in the corresponding scale of Rs. 15600-39100 plus G.P. 6600.

Late Nawal Kishore Jha, Retd. IAS was inducted in IAS cadre w.e.f. 21.06.1976 and not in the year 1975 as stated by the petitioner.

The aforesaid explanation offered in the counter affidavit having not been responded to, in my view, the application merits to be disposed of without granting any relief as prayed in the writ application.

I order accordingly.

(Kishore Kumar Mandal, J)

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