

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9070 of 2017

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Dayanand Srivastava son of Late Raj Kishore Lal Srivastava, permanent resident of Mohalla-Krishna Nagar Dewariya Khas, Post-Dewariya, PS-Kotawali Police Station Dewariya, District-Dewariya (UP).

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar.
2. The Principal Secretary, Cabinet Secretariat Department, Government of Bihar, Patna.
3. The Additional Secretary, Cabinet Secretariat Department, Government of Bihar, Patna.
4. The Principal Secretary, Finance Department, Government of Bihar, Patna.
5. The Principal Secretary, General Administration Department, (Personnel and Administrative Reforms Department), Bihar, Patna.
6. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Sanjay Kumar and
Surendra Kr. Choubey, Advs.

For the Respondent/s: Mr. Gyan Prakash Ojha-GA-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-07-2017 Heard Sri Sanjay Kumar as well as Sri Surendra Kumar Choubey, learned counsel for the petitioner and Sri Gyan Prakash Ojha, learned counsel for the State.

The petitioner is aggrieved by the Office Order as contained in Memo. No. 188 dated 17/2/2017 (Annexure- 4 to this writ application) by which the Cabinet Secretariat Department has changed the scale of pay and the grade pay applicable to the petitioner and subsequently, recovery has been ordered from his post retiral dues.



Learned counsel for the petitioner submits that the petitioner was earlier appointed as Cashier in the pay scale of Rs.680-965/- with effect from 10.08.1987, he was granted first Assured Career Progression in the pay scale of Rs. 4500-7000/- with effect from 10.08.1999 and later on, he was transferred to the Cabinet Secretariat Department, Bihar. He was granted second M.A.C.P. in the pay scale of Rs. 9300-34800/- with grade pay of Rs. 4200/- with effect from 01.01.2009, which was approved by the Cabinet Secretariat Department.

The Cabinet Secretariat Department issued Memo No. 1893 dated 28.12.2011 pursuant to the Resolution of the Finance Department bearing Resolution No. 10041 dated 03.11.2011.

Learned counsel for the petitioner submits that the petitioner became Upper Division Clerk and a member of the Bihar Secretariat Clerical Service because this solitary post of Cashier was also included in the said Service. The petitioner ultimately retired from service with effect from 31.01.2017 with grade pay of Rs. 4800/-. At this stage, learned counsel for the petitioner submits that the impugned order as contained in Annexure-4 to this writ application has been passed to his detriment without giving him any opportunity of hearing that too after his retirement, a specific statement has been made in this regard in paragraph 21 of this writ application.



I have perused the materials available on record and have heard learned counsel for the petitioner as well as the State.

In view of the limited submission, at this stage that the impugned order has been passed to the detriment of the petitioner affecting his rights and having a civil consequence but without giving him any opportunity of hearing, the impugned order is fit to be set aside on this ground alone, hence this Court hereby set aside the Office Order as contained in Memo. No. 188 dated 17/2/2017 (Annexure- 4 to this writ application) and direct the respondent authorities to pass a fresh order after giving adequate opportunity of hearing to the petitioner within a period of twelve weeks from the date of receipt/production of a copy of this order.

It is made clear that the benefit, arising out of setting aside the Office Order as contained in Annexure-4 to this writ application, to the petitioner shall be allowed, subject to the condition that in case the petitioner fails to succeed, he would be obliged to deposit the same with the Government.

The Writ application is disposed of.

(Rajeev Ranjan Prasad, J)

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