

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7313 of 2016

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1. Anil Kumar Singh S/o Late Mahendra Prasad Singh R/o A - 30, Ashokpuri Colony, Khajpura, P.O. - B.V. College, P.S. - Shashtri Nagar, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Animal Husbandary and Fisheries Resources Development Department, Bihar, Patna.
3. The Deputy Secretary, Animal Husbandary and Fisheries Resources Development Department, Bihar, Patna.
4. The Director, Diary Development Directorate, Bihar, Patna.
5. The Accountant General, Bihar, Patna
6. The Treasury Officer, the Secretariat Treasury, Vikash Bhawan, Patna.
7. The Secretary, Finance Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Adv.
Mr. Binit Kumar, Adv.

For the Respondent/s : Mr. Kumar Manish, SC21
Mr. Deepak Kumar, A.C. to S.C.5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-04-2017

Heard Mr. Rajendra Narain, learned Senior counsel for the petitioner along with Mr. Binit Kumar learned counsel and Mr. Deepak Kumar A.C. to S.C.5 for the State.

The grievance of the petitioner is that although he superannuated from the post of Director, Animal Husbandry but he has all along drawn salary attached to the lower post which he held previously.

The facts leading to the present writ petition stands noted in the



order of this Court passed on 3.3.2017 and requires no reiteration. Suffice it to say that the petitioner vide Annexures- 1,2, 3 and 5 was posted to discharge duties of a higher post but the stipulations present allowed him to draw salary of the substantive post that he held. In between, the petitioner was substantively promoted to the post of Joint Director on 11.12.2008 vide Annexure-4 and by the subsequent order bearing letter dated 30.6.2010 while holding the post of Joint Director that he was posted to discharge duties of the Director, Dairy Department on his own pay scale of Joint Director. No grievance was raised by the petitioner at any stage of time although the grievances raised dates back to the year 1996 when first of such orders was passed vide Annexure-1. Surprisingly even though since 1996 vide Annexure-1 until the superannuation of the petitioner on 30.6.2014, all along he discharged on duties on superior post while drawing salary of the substantive post but never did he raised any grievance.

It is not in dispute that it is while the petitioner was posted to discharge duties of a Director vide Annexure-5 vide notification no. 577 dated 30.6.2010 in the pay scale of Joint Director that he superannuated on 30.6.2014. It is one year thereafter that he came before this court complaining against the Notification No.577 dated 30.6.2010 whereunder he was posted as a Director in the pay scale of Joint Director bearing C.W.J.C. No. 4982 of 2015.



Though it is argued by Mr. Rajendra Narain, learned Senior counsel that the said writ petition also raised claims as regarding the previous officiation by the petitioner but the order of this Court present at Annexure-7 takes no such notice rather it is only the posting of the petitioner on the post of Director which has been taken note of and the matter remitted to the appropriate authority for its disposal which has resulted in the impugned order whereby the claim has been rejected.

Mr. Narain learned Senior counsel while supporting the claim on merits has seriously canvassed for grant of similar benefits to the petitioner as according to him, similar benefits have been provided to one Devendra Prasad in similar situation. It is submitted that the petitioner having been made to discharge duties of a higher post, cannot be denied the financial benefits attached to that post on grounds that he did not hold basic qualification for the same which is the reason assigned in the impugned order.

Having heard learned counsel for the parties, in my opinion the claim of the petitioner is fit to be rejected. In fact apart from the reasons so assigned in the impugned order to reject the claim of the petitioner, it is also fit to be rejected on grounds of laches and delay.

As I have already noted hereinabove, it is right since 1996 vide



Annexure-1 when the petitioner was posted as Deputy Director, vide Annexure-2 he was posted as a Joint Director in 2008 and vide Annexure 3 when while holding the post of Joint Director that vide Annexure-5 he was asked to discharge duties of Director as back as on 30.6.2010. Now even when the petitioner occupied the post for four years thereafter to superannuate only on 30.6.2014, he never raised a whisper of grievance to claim higher salary. Distinguishing the case of the petitioner from that of Devendra Prasad, it is noted that while the said Devendra Prasad knocked the doors of this Court while he was in service, the petitioner has leisurely moved this court after his superannuation.

I have perused the order passed by this Court in the case of Devendra Prasad which is dated 23.09.2011 which confirms that he raised his grievance while he was in service. The petitioner having slept over his rights for all the 15 years since he was made to discharge responsibility of higher post, coupled with the reasons so assigned by the respondent to reject the claim, I am not persuaded to grant indulgence to the prayer made.

The writ petition is disposed of.

Bibhash/-

(Jyoti Saran, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2017
Transmission Date	NA

