

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.451 of 2015
IN
Civil Writ Jurisdiction Case No. 2010 of 2011**

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Ram Nandan Singh, Son of Late Brahmdeo Singh, resident of village Thikaha Mataiya, P.O. Madhopur Ram, P.S. Vaishali, District Vaishali.

.... Appellant

Versus

1. The State of Bihar through the Commissioner- cum- Secretary, Urban Development and Housing Department, Govt. of Bihar, New Secretariat, Patna.
2. Patna Regional Development Authority (Dissolved)/ Patna Municipal Corporation through City Commissioner.
3. The City Commissioner, Patna Regional Development Authority (Dissolved) /Patna Municipal Corporation, Mauryalok Complex, Block-C., 2nd Floor, Dakbanglow Road, P.S. Kotwali, District Patna-1.
4. The Controller of Finance and Accounts, Patna Regional Development Authority (Dissolved) / Patna Municipal Corporation, Mauryalok Complex, Block-C., 2nd Floor, Dakbanglow Road, P.S. Kotwali, District Patna- 1.

.... Respondents

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Appearance :

For the Appellant : Mr. Shyama Kant Singh, Advocate

For the Respondents : Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-07-2017

Heard learned counsel for the appellant and counsel for
the Patna Municipal Corporation.

The impugned order is dated 19.12.2011. Since the writ
application of the appellant was dismissed refusing to give any relief
by way of direction upon the respondents to grant him the pay-scale
of Rs.950-1500 as well as the corresponding replacement scale, the
appeal has been preferred.

After having heard the counsel for the appellant, who
was the petitioner before the learned single Judge, the learned single



Judge had opined as under:

“Learned counsel for the Patna Municipal Corporation submits that the petitioner was the erstwhile employee of the Patna Regional Development Authority (hereinafter referred to as the ‘Authority’) and retired from the said Authority. It is submitted that now the Patna Municipal Corporation, after dissolution of the Authority has stepped into its shoes. However, the stand of the petitioner is incorrect inasmuch as the Government has approved the scale of the petitioner initially only in the scale of Rs. 800-1150 for unskilled helper, which the petitioner was and for which the replacement scale is Rs. 2550-3200. It is submitted that the scale of Rs. 950-1500, which was recommended by the Authority in the case of the petitioner was neither accepted by the Government nor by the Bureau of Public Enterprises and thus the scale of Rs. 800-1150 was confirmed. It is further submitted that due to the said fact, all the other similarly situated employees are getting the pay scale of Rs. 2550-3200 and even the petitioner was not actually paid in the scale of Rs. 2610-3540 and the order at best, remained in the file. Learned counsel submits that initially when the Authority had recommended the pay scale of Rs. 950-1500, payment has started subject to the condition of approval by the State Government and the Bureau of Public Enterprises and the petitioner had also given an undertaking that in future if due to any discrepancy or error or wrong pay fixation excess payment is made to him, the same may be recovered. Learned counsel



submits that the corresponding scale for the post held by the petitioner of unskilled helper i.e., Rs. 800-1150 was Rs. 2550-3200, whereas in the case of other categories it may have been more. Learned counsel further raises a preliminary objection and submits that the cause of action having arisen in the year 2005 when the Authority had passed an order in favour of the petitioner being sought to be implemented only in the year 2011 in the present writ proceeding, being inordinately delayed, ought not to be entertained.”

This Court does not find any infirmity with the rationale and reasoning provided by the learned single Judge in refusing to accept the claim of the petitioner/appellant that since there was a deliberation at the level of P.R.D.A. in favour of the appellant that creates a right in his favour.

A decision in the file is no decision in law so long it is not notified and implemented.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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