

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.954 of 2014
IN
Civil Writ Jurisdiction Case No. 22067 of 2012**

- =====
1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna
 2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna
 3. The Principal Secretary, Department of Finance, Government of Bihar, Patna
 4. The Joint Secretary, Department of Finance, Government of Bihar, Patna
 5. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna

.... Appellant/s

Versus

Kamal Kishore Sharan S/o Late Tripurari Sharan, R/o Mohalla West Lohanipur (Main Road), House No.319, P.S. Kadamkuan, Patna-800003

.... Respondent/s

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Appearance :

For the Appellants : Mr. Abhinay Raj, Advocate

For the Respondent : Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 01-05-2017

This is State's appeal under Clause 10 of the Letters Patent, seeking exception to an order dated 21.02.2014 passed by the Writ Court in C.W.J.C. No.22067 of 2012.

Petitioner was working as Scientific Assistant in the Directorate of Geological, Department of Geology and Mines, Hazaribagh. However, after bifurcation of the State of Bihar into Bihar and Jharkhand with effect from 15.11.2000, the respondent-employee was allocated to the State of Jharkhand and continued to hold the post of Scientific Officer in the Geological Laboratory,



Hazaribagh and was drawing a pay scale of Rs.6500-10500/- with a grade pay of Rs.4800/-. It seems that in the year 2009 a scheme was formulated by the Government of India after due concurrence of the Government of Bihar for calling the option from such persons, who have gone to the State of Jharkhand but wanted to migrate back to the State of Bihar. The respondent-employee was one such person, who gave the option. His option was accepted and he was transferred from State of Jharkhand to the State of Bihar on 31.12.2010 and joined in the State of Bihar on 03.01.2011. When he was working with the State of Jharkhand, he was getting a pay scale of Rs.6500-10500/- with a grade pay of Rs.4800/-. When he joined the State of Bihar, it was found that in the State of Bihar the aforesaid pay scale with the pay band is not available and, therefore, the recommendation was made by the Finance Department for creating a supernumerary post in the aforesaid pay scale and the pay band to a government servant like the petitioner. However, in spite of such recommendation being made when the pay band of the petitioner was reduced from Rs.4800/- to Rs.4200/- in the pay granted to the petitioner, the cause of action accrued for filing the writ petition and the Writ Court after examining various aspects of the matter found that once the employee's option was accepted and he was permitted to be transferred from the State of Jharkhand to the State of Bihar, his pay scale or the pay band cannot be reduced and finding the reduction to



be unsustainable, has allowed the writ petition and directed for maintaining the pay band, as was granted in the State of Jharkhand.

We have perused the order passed by the learned Writ Court, considered the submissions made by the State and we find no error in the order passed by the learned Writ Court warranting reconsideration. The respondent-employee gave his option, the same was accepted and while submitting the option it was clearly indicated that he would be adjusted in the pay scale of Rs.6500-10500/- with a pay band of Rs.4800/- and it was with his understanding that the petitioner opted for transfer to the State of Bihar..

Having done so, the State could not reduce his pay band and in doing so an illegality has been committed, which has been corrected by the learned Writ Court for the reasons recorded in the order passed by the learned Writ Court and we find no indulgence into the matter.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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