

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22441 of 2014

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Khyali Singh Son of Late Ram Ishwar Singh Resident of Village + P.O.- Gowasa
Sheikhpura, P.S.- Pandarak, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Commissioner-cum-Secretary, Primary Education Department, Govt. of Bihar, Patna.
4. The Director, Primary Education Department, Bihar, Patna.
5. The Director, General Provident Fund, Bihar, Patna.
6. The District Superintendent of Education, Patna.
7. The District General Provident Fund Officer, Patna.
8. The District Accounts Officer, Patna.
9. The Accountant General (A & E)-II, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate

For the Respondent/s : Mr. SMT. N. MISHRA GA-13

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-06-2017

The petitioner has filed this writ petition for granting increment of Rs.50/- of the year 1993 and payment of difference amount.

2. Earlier also, the petitioner has filed a writ petition vide CWJC No. 3008 of 2006 contending therein that pay-scale of the petitioner had incorrectly been fixed. The said writ



petition was disposed of vide order dated 03.05.2010. The operative part of the order reads as under :-

“Pursuant to the order of this Court dated 09.04.2010, a counter affidavit has been filed on behalf of the State and in which it has been stated that the pay scale of the petitioner had earlier been incorrectly fixed and which was subsequently rectified and on the basis whereof, the pension, gratuity and other admissible amount are being paid. It is further stated that although the Accountant General had opined for recovery but such recovery has not yet been effected from the petitioner.

In that view of the matter, nothing survives in the writ petition. In case the respondents choose to affect the recovery of the excess amount, the petitioner shall be at liberty to challenge the same in an appropriate proceeding before an appropriate forum.

With the observation aforesaid, the writ petition is disposed of.”

3. Regard being had to the fact that issue of wrong fixation of salary was raised earlier before this Court which was considered way back in 2010, the prayer for re-fixation of pension after granting increment of Rs.50/- of the year 1993 and pay the difference amount in the present writ petition is not maintainable,



as the same would clearly be barred by the principle of *res judicata*.

4. Furthermore, the State in its counter-affidavit has categorically stated that the pension of the petitioner has been fixed and sent to the District Account Officer, Patna for approval and the District Account Officer has approved the pay fixation of the petitioner after making necessary correction on 22.05.2003 which has also been accepted by the Accountant General, Bihar who issued the authority slip of pension on the basis of said approved pay fixation.

5. There is no other material to suggest that the petitioner was entitled to any additional increment of Rs.50/-.

6. In that view of the matter, the writ petition, being totally misconceived, is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
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