

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No. 515 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 9639 of 2015

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Ajit Kumar Mishra son of late Prafulla Chandra Sharma resident of village -
Fatehpur Nepa, Police Station - Panchanpur, District - Gaya.

.... Respondent/s-Petitioner/s

Versus

1. The Union of India through the Secretary-cum-Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi - 110001.
2. The Chief Post Master General, Bihar Circle, Patna - 800001.
3. The Director of Postal Services (HQ), Patna - Office of the Chief P.M.G., Bihar Circle, Patna - 800001.
4. Senior Superintendent of Post Office, Gaya Division, Gaya - 823001.
5. Senior Post Master, Gaya Head Post Office, Gaya - 823001.

.... Petitioner/s Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 19-05-2017

Heard learned counsel for the petitioner and Union of
India.

2. The present application has been filed seeking review
of the order dated 11.05.2016 passed in C.W.J.C. No. 9639 of 2015 by
which the writ petition was disposed off modifying the order of the
Central Administrative Tribunal, Patna Bench, Patna (hereinafter
referred to as the 'Tribunal') dated 03.10.2013 passed in O.A. No. 315
of 2011.

3. The Tribunal had passed order dated 03.10.2013 in



O.A. No. 315 of 2011, directing the opposite parties to pay officiating allowance to the petitioner from 30.04.2004 till 17.02.2016, along with interest within three months. In C.W.J.C. No. 9639 of 2015, by order dated 11.05.2016, the order of the Tribunal was modified to the extent that the applicant was allowed payment of overtime allowance from 30.04.2004 till 17.02.2006 along with interest @ 8% per annum as is payable to the higher post of Assistant Post Master (Accounts).

4. Learned counsel for the petitioner submitted that the order of the Tribunal was proper and did not merit any modification. He submitted that the petitioner was initially, by order dated 30.04.2004 directed to discharge the duty of Assistant Post Master (Accounts) in addition to his own work daily for three hours on the basis of overtime allowance. Learned counsel submitted that the order was modified on 07.05.2004, when the petitioner was asked to substantially work on the post of Assistant Post Master (Accounts), which is a higher post. He submitted that the said order dated 07.05.2004 was not brought to the notice of the Court earlier which led to passing of the order dated 11.05.2016 of which review is sought in the present writ application.

5. Learned counsel for the Union of India submitted that the order dated 07.05.2005 was neither brought on record in C.W.J.C. No. 9639 of 2014 nor was noticed by the Tribunal in its order dated 03.10.2013 and thus, the petitioner is precluded from referring to or relying on the said order for the first time in the present review



application.

6. We have perused the Original Application filed by the petitioner before the Tribunal. In the main pleadings, there is no reference to the order dated 07.05.2004. Thus, we are in agreement with learned counsel for the Union of India that such factual matter not having been raised by the petitioner in O.A. No. 315 of 2011, the same cannot be a ground for pressing the present Civil Review Application. Further, we have been informed by learned counsel for the Union of India that even the Tribunal had only directed for payment of officiating allowance and not the full pay for the higher post for the period in question and thus, the difference between the same and overtime allowance, as granted by this Court earlier on 11.05.2016, would not be substantive so as to justify interference in the matter.

7. For the reasons aforesaid, we are not inclined to review the order dated 11.05.2016 passed in C.W.J.C. No. 9639 of 2015 and accordingly, the Civil Review Application stands dismissed.

(Ahsanuddin Amanullah, J.)

I agree

(Kishore Kumar Mandal, J.)

P. Kumar

AFR/NAFR	
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