IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14787 of 2014

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1. Vijay Kumar Prasad Son of Late Ram Julum Singh resident of Village - Muroul, P.S. - Sakra, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Primary Education, Govt. of Bihar, Patna
3. The Accountant General, Bihar, Patna
4. The Senior Accounts Officer, Office of Accountant General, Bihar, Patna.
5. The District Officer (Collector), Muzaffarpur.
6. The District Program Officer Sthapana, Education, Muzaffarpur.
7. The Head master Govt. Middle School Etha, Anchal - Muroul, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar, Adv.
For the State : Mr. Ajeet Kumar, GA-9
For the Accountant General : Mr. Satyendra Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 04-08-2017

This writ application has been filed by the petitioner for a direction to the respondents to fix his pension according to the last pay drawn in the scale of Rs.27,170/- and to pay the arrear of difference of pension from March, 2010 onwards. The petitioner has also prayed for a direction to the respondents to calculate the gratuity and unutilized leave encashment on the scale of Rs.27,170/- and to pay the due amount.

2. It has been submitted by the learned counsel for the petitioner that the petitioner retired on 28.02.2010 as Headmaster of Government Middle School, Etha, Muzaffarpur. At the time of superannuation, he was drawing monthly salary in the scale of

Rs.27,170/- but his pension was fixed treating his last pay drawn as Rs.25,930/-. He has submitted that the gratuity and leave encashment have also been fixed treating his salary in the scale of Rs.25,930/-. He has submitted that due to the error committed by the respondents, the petitioner has suffered great hardship and has been put to recurring financial loss.

3. On the other hand, learned counsel for the State has submitted that the petitioner had been promoted as Headmaster in the scale of Rs. 6500-10500 on 05.09.1996 and, according to the Finance Department's rule, he was entitled for promotion in the scale of Rs.7500-12000/- on 04.09.2008 after 12 years, but he was erroneously promoted in the scale of Rs. 7500-12000 from 01.04.1996. He has submitted that when the service book of the petitioner was transmitted to the Accountant General, the discrepancy was detected and thus the error committed was rectified.

4. Learned counsel for the Accountant General has supported the contention advanced by the learned counsel for the State. He has submitted that the revised pension/death-cum-retirement gratuity in favour of the petitioner at admissible pay of Rs.25,930/- was authorized by the Accountant General as back as on 04.03.2011. He has submitted that a communication in this regard was also made to the department concerned and, according to him, there was an error in fixation of pay of

the petitioner in the scale of Rs.27,170/- and, thus, the error committed in fixation of the scale was rectified in the office of the Accountant General.

5. I have heard learned counsel for the parties and perused the record.

6. There is no dispute to the fact that according to the Finance Department's rules an employee would be entitled for promotion in the higher scale after rendering 12 years of the satisfactory service. As the petitioner was promoted as Headmaster in the scale of Rs.6500-10500 on 05.09.1996, he was entitled for promotion in the scale of Rs.7500-12000 on 04.09.2008 on completion of 12 years.

7. In that view of the matter, if at the time of fixation of pension the error committed in the fixation of the scale was rectified, no fault can be found in the action of the respondents.

8. Accordingly, the writ petition, having no merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07-08-2017
Transmission Date	