

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.277 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 390 of 2013**

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Punam Kumari, wife of Sri Sanjay Sharma, Resident of village- Raghapur, P.S.-
Bihta, District- Patna.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna..
2. The Secretary, Health Department, Government of Bihar, Patna.
3. The Secretary, Department of Personnel and Administrative Reforms,
Government of Bihar, Patna.
4. The Secretary, Department of Finance, Government of Bihar, Patna.
5. The Joint Secretary, Department of Finance, Government of Bihar, Patna.
6. The Sepecial Secretary, Department of Health, Government of Bihar, Patna.
7. The Executive Director, State Health Committee, Government of Bihar, Patna.
8. The Director-in-Chief, Directorate Health Services, Government of Bihar,
Patna.
9. The Superintendent, Patna Medical College and Hospital, Patna.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar Mangalam, Adv
: Smt. Anita Kumari, Adv
For the Respondent/s : Mr. Pushkar Narain Shahi, Sr. Adv- AAG-6
: Mr. Dharendra Kumar, AC to AAG-6

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 13-01-2017

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 9th October, 2015,
whereby the writ applications were disposed of in the light of the
order of Health Department contained in Memo No. 990(4) dated
11.11.2014, by which the honorarium payable to the appellant were
raised to Rs. 25,000/- .



The appellant was appointed as Staff Nurse Grade-A on contract basis. The remuneration payable to such employees was dealt with by the State Government in a Circular dated 18th July, 2007, wherein, it was contemplated that the Committee shall consider the amount of honorarium payable to the Staff Nurse Grade-A after taking into consideration the minimum of the pay scale, dearness pay, dearness allowance and other allowances including such as house rent allowances. The mandate was that the Committee will take into consideration the pay and allowances to arrive at the honorarium payable. In terms of such decision of the State Government, the Committee in its meeting held on 13th November, 2007 fixed the honorarium payable to Staff Nurse Grade-A at Rs. 7955/-. The said amount does not include any amount of dearness pay, though such dearness pay was included as payable to the Professor, Associate Professor and Assistant Professor.

Learned Single Bench disposed of the writ application vide order impugned after noticing the subsequent provision of the honorarium which was revised on 11.11.2014 to Rs. 25,000/-. To arrive at the sum of Rs. 25,000/-, the Committee has considered the pay band, grade pay, dearness allowance, house rent allowances, the total of which comes out to be Rs. 29,100/- as the salary payable to the regular employees. Since the appellant was appointed on contract basis, the honorarium of contractual employee was fixed as Rs. 25,000/-.

Learned counsel for the appellant vehemently argued



that pay of Professor, Associate Professor and Assistant Professor carries the dearness pay, but such dearness pay has not been given to all other categories including Staff Nurse Grade-A. He relies upon the circular dated 18th July, 2007, wherein the Committee has to take into consideration the minimum of pay scale, dearness pay, dearness allowance and house rent allowances etc to fix honorarium payable to the contractual employees.

The committee has considered the various allowances payable and arrived at a figure of Rs. 7955. There was no mandate that dearness pay would be payable but such factor was to be kept in mind while fixing the honorarium payable to the contractual employees. Once the honorarium has been fixed by the Committee and the appellant joined knowing well the honorarium payable, we do not find that appellant can be permitted to raise any grievance in respect of the honorarium payable to the contractual employees.

The judgment of the Hon'ble Supreme Court referred to by the learned counsel for the appellant in the case of State of Punjab versus Jagjit Singh, Civil Appeal No.213 of 2013 decided on 26.10.2016, is not applicable in as much as the Court has directed the payment of minimum pay scale. The appellant is definitely getting more than the minimum pay scale. The court in Jagjit Singh's (supra) case held thus:-

“58. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale(at the lowest grade, in the regular pay-scale), extended to



regular employees, holding the same post.”

Since the appellant is getting more than the minimum pay scale, which was Rs.5000/- at the time of appointment, therefore, it cannot be said that she is entitled to more amount than the honorarium already fixed by the State government.

We do not find any merit in the present Letters Patent Appeal. Accordingly the Letters Patent Appeal is disposed of.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

Shageer/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17/01/2017
Transmission Date	

