

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18798 of 2008

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Ravi Shanker Kumar, son of late Shashi Bhusan Yadava, resident of Village Yamunapur Belwadih, P.S., Kalyanpour, District East Champaran, at present working as Store-keeper, Tirhut Canal Division No.1, Motihari

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Bihar, Patna
3. Under Secretary, Water Resources Department, Bihar, Patna
4. Secretary, Finance Department, Bihar, Patna
5. Chief Engineer, Water Resources Department, Balmikinagar, West Champaran
6. Executive Engineer, Tirhut Canal Division No.1, Motihari
7. Collector, West Champaran, Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tara Nath Jha

For the State : Mr. Harish Kymar, GP8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioner and learned counsel for the State.

In the present case, the petitioner is challenging the order dated 22.10.2001, as contained in Memo No.554, by which he was granted the pay in the pay scale of Rs. 3050-4500, made prayer for issuance of mandamus to grant the pay scale of Rs.4000-6000 which was granted to him at the time of his appointment. He has further prayed to make payment of difference of salary in the pay scale of Rs.4000-6000 and continue to make payment of salary in the same pay scale.

The petitioner was appointed on compassionate ground



vide order dated 15.12.2000 in the pay scale of Rs.4000-6000 and later on he was confirmed in the service on 22.10.2001 but by the impugned order reduced the pay scale for Rs.3050-4500, on account of the letter of Finance Department No. 3M,2/5 V.Pu.9/99-8825 V 121/Patna dated 20.12.2000. This letter has been attached by the State as Annexure A/1 that notification itself shows with de-merger of clerk in two scales were created i.e. LDC scale of Rs. 3500-4500 and UDC scale of Rs.4000-6000. In Clause 4 of notification it has been mentioned that those who have been entered in the service prior to the date of issuance of notification will be treated to be Upper Division Clerk (UDC). At event of confirmation, the petitioner has been granted the scale of Rs.3050-4500 treated him member of LDC which is contrary to the notification dated 20.12.2000 wherein itself mentioned that those who have been entered into service prior to enforcement of notification will be treated UDC.

Admittedly the petitioner has been appointed before due date of notification and the date of confirmation of service will not be the basis for treating differently to the entry in the service. Instruction must be implemented in its full force with letters and spirit it cannot be scuttle or wrongly been implemented when the stipulation of the notification is very much clear.

In such view of the matter, petitioner should be treated to



have been appointed in the scale of Rs.4000-6000. Accordingly proper fitment of pay should be made in scale of pay of Rs.4000-6000, accordingly, the petitioner would be entitled to arrears of salary.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.1.2018
Transmission Date	NA

