

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13139 of 2010

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1. Bijay Kumar Singh S/O Late Bhuwaneshwar Prasad Singh R/O Vill.- Budhawan,
P.O.- Hara, P.S. Uda Kishanganj, Distt.- Madhepura, Presently Residing At 35,
Alkapuri, Gardanibagh, Anisabad, P.S.- Gardanibagh, Distt. & Town- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Govt. Of Bihar, Old Secretariat, Patna
2. The Principal Secretary To The Government Water Resources Department, Govt. Of Bihar, Patna
3. The Chief Engineer (Mechanical) Water Resources (Irrigation), Govt. Of Bihar, Patna
4. The Superintending Engineer, Mechanical (Irrigation) Circle, Muzaffarpur
5. The Executive Engineer (Mechanical) Water Resources Division, Balmiki Nagar, West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SURENDRA MISHRA
For the State : Mr. Prabhat Ranjan, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-05-2018

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

In the present writ petition, the petitioner is challenging the letter no. 1903 dated 29.10.1999 issued by the Executive Engineer, Mechanical Division, Gandak Yojana, Balmiki Nagar by which petitioner's pay has wrongly been fixed in the scale of Rs.3050-4590 with effect from 1.1.1996 in place of Rs.3200-4900. He has claimed that it should be rectified whereafter an interlocutory application vide I.A. No.3067 of 2018 has been



filed. In the aforesaid interlocutory application the following relief has been sought:

“(i) For quashing and setting aside the office order no.1903 dated 29.10.1999 issued under the signature of Executive Engineer, Irrigation Mechanical Division, Gandak Yojana Balmikinagar Annexure-5 of the writ application whereby petitioner’s pay has been wrongly fixed in the pay scale of Rs.3050-4590 w.e.f. 01.01.1996, though the petitioner was being paid pay scale of Rs.1400-2300 due to granting 2nd time bound promotion before 5th pay revision as such the petitioner is legally entitled for revised and replacement scale of Rs.1400-2300 in the pay scale of Rs.4500-7000 on the basis of 5th pay revision w.e.f. 01.01.1996.

(ii) For direction upon the respondents authorities for granting benefit of 2nd time bound promotion to the petitioner w.e.f. 28.05.1991 in place of 28.05.1999 in the pay scale of Rs.1400-2300 after completion of 25 years of service rendered by the petitioner from the date of initial appointment i.e. 08.07.1966 in work charge establishment

(iii) This writ application is also for further direction upon the respondents to grant any such other relief or reliefs for which the petitioner is found entitled.”

Basically the petitioner has claimed that his pay has wrongly been fixed after implementation of 5th Pay Revision Commission Report as the fact is that before implementation of



5th Pay Revision Commission Report the petitioner was in the scale of Rs. 1400-2300 and substituted scale comes to Rs.4500-7000 but has wrongly been fixed at Rs. 3050-4590.

Brief facts of the case is that petitioner was appointed as Switch Board Operator on 8.7.1966 in the work charge establishment in the pay scale of Rs. 115-145 minimum Rs. 120/- and every year there was enhancement of Rs.5/-. Accordingly his pay was revised from time to time year wise and on 1.1.1971 his pay scale was fixed as Rs.275 in the revised pay scale of Rs.220-315 as per statement recorded in the service book.

The Government of Bihar vide letter no.445 dated 22.4.1982 regularized the services of the petitioner and he was granted pay scale of Rs.680-965 and pay was fixed at Rs.815/-. After implementation of 4th Pay Revision Commission Report the pay scale was revised at Rs.1320-2040 with effect from 1.1.1986 and pay of the petitioner was fixed at Rs. 1640/- on 1.1.1986 and petitioner was granted first and second time bound promotion, accordingly his pay scale was fixed at Rs. 1400-2300 with effect from 28.5.1991.

There is no dispute up to this stage. The dispute is on implementation of 5th Pay Revision Commission Report which was implemented vide notification no. 660 dated 8.2.1999. On



implementation of 5th Pay Revision Commission Report the benefit arising from time bound promotion was withdrawn, accordingly employees were adjusted on the principle and scheme of need based post. The petitioner was brought to basic scale of Switch Board Operator and he was given scale of Rs.950-1400 which was the basic pay scale of Switch Board Operator and its replacement scale comes to pay scale of Rs.3050-4590.

The grievance of the petitioner is that his pay scale should be given on the replacement of Rs.1400-2300 which comes to Rs.4500-7000 is a misconceived and misplaced notion, reason is on implementation of 5th Pay Revision Commission Report the benefit of time bound promotion was withdrawn and every person has been placed at basic scale, hence corresponding and substituted pay scale was given. So the action of the State cannot be said to be wrong but this is not end of the matter as petitioner has already qualified 25 years of service, implementation of ACP Scheme has been made with effect from 1999 and as such the petitioner cannot be denied the benefit arising out of ACP scheme i.e. first ACP and second ACP.

So this Court is of the view that the State Government should grant the benefit of ACP though there is no relief sought



as has been raised by the learned counsel for the petitioner but ends of justice under the writ jurisdiction this Court feels necessary to mould the relief would sub serve the purpose and advance justice. Further learned counsel for the petitioner has submitted, while granting first time bound promotion and second time bound promotion has been given with effect from 28.5.1999 whereas he should have been granted from 1991. This relief cannot be entertained in the present proceeding. This case has been filed in the year 2010, in the interlocutory application for the first time relief has been sought in 2018 so relief which has been claimed suffers from from delay and laches, such belated relief cannot be entertained, the same is rejected.

Accordingly interlocutory application is disposed of and with the aforesaid observation and direction this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.5.2018
Transmission Date	NA

