IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8292 of 2018

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Hira Lal Yadav Son of late Brahamdeo Yadav Resident of Village- Fatehpur, P.O. Mauri Via- Shankarpur Imamganj, P.S. Paliganj, District- Patna, At Present Vill+P.O.+P.S. Kinjer, District- Arwal(Bihar). ... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar,Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Patna, District- Patna.
4. The District Programme Officer(Estt.), Patna, District- Patna.
5. The Accountant General(A & E), Bihar, Patna. ... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Srivastava
For the Respondent/s : Mr. Smt. Shilpa Singh- Ga12

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 04-12-2018 Heard learned counsel for the petitioner, learned counsel for the State as well as learned counsel for the Accountant General, Bihar, Patna.

A counter affidavit has been filed on behalf of the Respondent No. 4, The District Programme Officer (Estt.), Patna in which it has been stated that the petitioner is not entitled to get any further benefits in same grade pay as is evident from para- 6 to 12, which is quoted here in below:-

> “ 6. That from the facts mentioned in the Writ application, it appears that the petitioner was granted promotion in B.A. trained Scale vide office order No. 3336 dated 16.07.2010 in the scale of Rs. 9300-34800 (PB -2) with grade pay 4600/- and retired on 30.04.2011.
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> 7. That it is humbly stated that prior to promotion of the petitioner in B.A. trained scale, the petitioner was already granted the benefits of pay scale of Rs. 9300-34800 (PB-2) with grade pay 4600- i. e. admissible to a Grade- II teacher of Matric Trained Scale.
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> 8. That it is stated that in pursuance of office order granting promotion in B.A. trained scale, the petitioner had submitted his joining on 03.09.2010

and accordingly, pay fixation of the petitioner was done granting 3% promotional benefits w.e.f. 03.09.2010 and sent to the office of the Accountant General, Bihar but the same was returned with objection vide letter No. Pan-12/1586 dated 16.03.2017 that in view of provisions under para-12 of the resolution of the Finance Department contained in memo no. - 630 dated 21.01.2010, benefits of promotions can not be extended when promotion is made in the same grade pay i.e. 4600/-.

A photo copy of letter No. Pen-12/1586 dated 16.03. 2017 is annexed here with and marked as Annexure-A to this counter affidavit.

9.That in view of communication/ objection made by the office of the Accountant General, Bihar, the petitioner was duly intimated vide letter No. 5156 dated 22.06.2017 regarding objection raised by the office of the Accountant General, Bihar.

A photo copy of letter No. 5156 dated 22.06.2017 is annexed herewith and marked as Annexure- B to this counter affidavit.

10. That vide letter No. 1547 dated 08.12.2017, the office of the Accountant General, Bihar again intimated that though the petitioner is not entitled to get promotional benefits in same grade pay in view of resolution no. 630 dated 21.01.2010 but simultaneously called for sanction along with service- book and in response to the same, vide letter No. 275 dated 30.01.2018 the office of the Accountant General, Bihar was intimated that as the petitioner is not entitled to get promotional benefits in terms of para-12 of the resolution No. 630 dated 21.01.2010, there is no need to send any further proposal for revision of pension of the petitioner.

Photo copies of letter No. 1547 dated 08.12.2017 and letter No. 275 dated 30.01.2018 are annexed herewith and marked as Annexure- C & D respectively.

11. That the petitioner again represented before the answering respondent vide his representation dated 05.03.2018 which was received in the office of the answering respondent on 16.03.2018 wherein the petitioner has mentioned names of certain similarly situated persons whose pension

has been fixed after granting promotional benefits and in view of the same, vide letter No. 1485 dated 23.05.2018, the office of the Accountant General, Bihar was requested to get the matter enquired into and to take necessary action in the matter and in response to the same, the office of the Account General, Bihar vide his letter No. 423 dated 18.06. 2018 has directed to take steps for recovery of excess payment made in terms of pension to the persons, who have been erroneously/ illegally granted the promotional benefits on account of promotion in same grade pay, contrary to the provisions of resolution No. 630 dated 21.01.2010 and in terms of the said direction, the steps are being taken up.

Photo copies of representation of the petitioner dated 05.03. 2018, letter No. 1485 dated 23.05.2018 and letter No. 423 dated 18.06.2018 are annexed herewith and marked as Annexure- E, F & G resectively.

12. That in view of aforementioned facts and circumstances, the answering respondent humbly states that since the petitioner was granted promotion in same grade pay i.e. 4600, which he was getting prior to his promotion in B.A. trained scale, he is not entitled to get any other benefits in terms of provisions of Finance Department resolution no. 630 dated 21.01.2010 and therefore, any claim of the petitioner for further revision of pension is not justified in the eye of law and is fit to be rejected."

In view of the statements so made in the counter affidavit, this writ application has no merit and is accordingly, dismissed.

(Nilu Agrawal, J)

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