

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14430 of 2010

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Arvind Sharma, son of Sri Suraj Deo Singh, resident of Village-
Bishambharpur, P.S.-Bikram, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Agriculture Production Commissioner, Department of
Agriculture, Bihar, Patna.
3. The Director, Department of Agriculture, Govt. of Bihar, Patna.
4. The Joint Director (Plant Protection) Mithapur Agriculture Farm,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Bharti, Adv
For the State : Mr. Kumar Vikram, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 06-12-2018

The petitioner, who is a Field Operator in Plant
Protection Centre, Bihta, has preferred this writ petition
challenging the order dated 25th of September, 2006
contained in Memo No. 38 issued under the signature of
Joint Director, Agriculture (Plant Protection), Bihar whereby
his claim for being paid the second ACP on the pay scale of
5000-8000 has been rejected.

2. Later, by way of supplementary affidavit, the
petitioner has also sought to challenge the office order



contained in Annexure-1 dated 24.02.2006 whereby his first and second ACP was determined at the pay scale of 4000-6000 and 4500-7000 respectively.

3. It appears that the representation of the petitioner was considered by the respondent authorities and it was found that the employees under the Plant Protection Scheme were not being paid in terms of Bihar Panchayat Primary Teachers Appointment Rules of 2006 but by virtue of the Circular of the Finance Department. The Circular contained in Letter No. 660 dated 08.02.1999 of the Finance Department makes a distinction between the persons having qualification of B.Sc. Agriculture or B.Sc. in any other science subject and persons having a graduate degree other than science subjects. For the former, the pay scale is 5000-8000 whereas for the later, the pay scale is 4000-6000. The second ACP therefore is admissible to a Non-Agronomist Field Operator at the scale of 4500-7000 which was initially given to the petitioner in the year 2006.

4. The learned counsel for the petitioner has drawn the attention of this Court to a resolution of the Finance



Department dated 20.12.2017 wherein it was brought to the notice of the Finance Department that there was no distinction between the employees under the Agronomy and Non-Agronomy cadre; rather the posts of Field Operator, Field Supervisor and Field Inspector belonged to one cadre of Plant Protection Force and therefore the issue with respect to the scales of pay was placed before the Finance Department again. After properly analyzing the earlier resolutions of the Department, it was resolved that for Non-Agronomy Plant Protection Inspector, the pay scale would be Pay Band-1+ 2400 from 01.01.2006 and Pay Band-2+ 4200 from 01.01.2016 at the scale of level VI of pay.

5. It was thus urged on behalf of the petitioner that petitioner as a Field Operator would be entitled to higher pay scale.

6. The aforesaid submission of the learned counsel for the petitioner appears to be *prima facie* incorrect as the resolution dated 20.12.2017 referred to above relates to the cadre of Plant Protection Inspector. The petitioner has not been promoted to the post of Plant Protection Inspector;



rather he has only been provided the financial progression as is admissible to him under the rules of 2003.

7. The learned counsel for the petitioner has then argued that some of the other similarly situated persons have been given the benefit of second ACP in the pay scale of 5000-8000 and even today some of the persons are being paid the second ACP on the pay scale of 5000-8000.

8. In that connection, the counter affidavit of the State clearly indicates that the persons who were given the pay scale of 5000-8000 have been intimated about such wrong payment and their positions have been reverted to the lower scale. The details of the names of such employees have been provided in the counter affidavit.

9. Any order which does not have the sanction of law cannot be taken as a precedent and petitioner cannot take advantage of the same.

10. Considering the aforesaid facts as also taking into account that the petitioner does not have the qualification for being paid the second ACP in the pay scale of 5000-8000, his claim for the same is not tenable.



11. However, regard being had to the submission made on behalf of the petitioner that some of the Field Operators are still being paid in the scale of 5000-8000, it would be open for the petitioner to approach the Director, Department of Agriculture (Respondent No. 3) with his grievance within a period of six weeks. In such an event, the Director shall, after hearing the petitioner, pass a reasoned order in accordance with law within a reasonable period.

12. With the aforesaid observation, the writ petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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