

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7269 of 2014

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Indradeo Paswan, son of Late Harkhoo Paswan, resident of 302 Rambha Appartment, Rajbanshi Nagar, P.O. and P.S.- Shastrinagar, District- Patna

.... **Petitioner**

Versus

1. The State of Bihar, through the Chief Seceretary, Government of Bihar, Old Secretariat, Patna
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna
4. The Under Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna
5. Accountant General, Bihar, Bir Chand Patel Marg, Patna
6. The Director, Directorate of Provident Fund, Pant Bhawan, Patna

.... **Respondents**

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Appearance :

For the Petitioner	:	Mr. Akashdeep, Advocate, Mr. Shyameshwar Kumar Singh, Advocate
For the State	:	Mr. Partha Sarthy, GA 11 and Mr. Rajendra Prasad, Advocate
For the AG, Bihar	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 10-08-2018

Heard learned counsel for the petitioner, the State and the Accountant General, Bihar.

2. It is common case that the punishment which has been awarded to the petitioner is of “reduction to a lower time scale of pay which shall be a bar to the promotion” as per Rule 14(viii) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (herein after referred to as ‘the Bihar CCA Rules, 2005’) amended from time to time.

Rule 14 (viii) of the Bihar CCA Rules, 2005 is



reproduced herein below:-

(viii) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or service from which he or she was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;

3. It is also common case that the order of punishment is under challenge in a separate writ petition arising out of C.W.J.C.No. 22665 of 2012. Whether order of punishment will sustain judicial scrutiny of this Court or not is to be seen in that case. If the petitioner succeeds in that case, he may get more.

4. In the instant case, he is only concerned with his fixation as per punishment inflicted in the proceedings which shall be subject to pending proceedings arising out of C.W.J.C.No. 22665 of 2012. The petitioner is aggrieved that though the punishment is one under 14(viii) of the Bihar CCA Rules, 2005 and there is no express punishment of fixing him at the lower stage in the time scale of pay. However, as a result of the fixation done by the office of the Accountant General, Bihar under its Pay Slip No. 03121312053740 (Annexure 9) petitioner has been placed not only in the lower time scale of pay but also at the lowest stage in the



lower time scale of pay. It is clear from the punishment that the same was limited to placing him under lower time scale. Even in the latest counter affidavit filed on behalf of the respondents, it has clearly been stated that the punishment was limited to placing the petitioner in lower time scale which shall be a bar to promotion as per Rule 14(viii) of the Bihar CCA Rules, 2005. There is no punishment under Rule 14(vii) of the Bihar CCA Rules, 2005 which reads as follows:-

(vii) Save as provided for in clause (iv), reduction to a lower stage in time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;

5. The issue, therefore, is limited to the extent that the fixation of the petitioner's pay in the lower time scale is to be done by the office of the Accountant General, Bihar. While doing so, officials of the AG office should be conscious that the petitioner has not been inflicted with punishment so as to place him at the lowest stage of lower time scale of pay. Reduction to a lower stage in the lower time scale of pay would involve withholding or denying the benefits of annual increment to the petitioner. The same cannot be done unless such a punishment is awarded. It is



clear that no such punishment of withholding/denying increments to the petitioner has been awarded. In absence of any punishment withholding or denying annual increments, the petitioner, as per Rule 83 of the Bihar Service Code cannot be denied the same.

6. Let the same be done by the office of the Accountant General, Bihar, with consequential benefits arising out of fixation in the lower time scale within a period of eight weeks from the date of receipt/production of a copy of this order.

7. The writ petition is allowed with the aforesaid observations and directions.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.8.2018
Transmission Date	NA

