

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9679 of 2000

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Ram Sewak Pandit, son of Late Mahabir Pandit, resident of Mohalla-Sheopuri, P.O. Anisabad, District- Patna-2. Retired Under Secretary (Reporting) (Junior Selection Grade), Bihar Legislative council, Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chairman, Bihar Legislative Council, Patna.
3. The Secretary, Bihar Legislative Council, Patna.
4. The Deputy Secretary, Bihar Legislative Council, Patna.
5. The Under Secretary, Bihar Legislative Council, Patna.
6. The Commissioner, finance Department, Government of Bihar, Old Secretariat, Patna.
7. The Accountant General Bihar, Birchand Patel Marg, Patna-1.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent-State: Mr.

For the Respondent-BLC: Mr. Kaushal Kumar Jha, Adv.

For the Respondent-AG : Mr. R.K. Chaubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-08-2018

None appears on behalf of the petitioner. Today is the second consecutive date when none appears on behalf of the petitioner. Learned counsel for the State, Mr Kaushal Kumar Jha, learned counsel appearing for the Bihar Legislative Council (hereinafter referred to as the 'Council') and Mr. R. K. Chaubey, learned counsel appearing for the Accountant General, are present.

Since this writ petition is pending for hearing after being admitted on 25.09.2000 that this Court has proceeded to examine the claim set forth by the petitioner even in absence of his counsel and the reason is because the issue raised by the petitioner is covered by a number of judgments of this Court. In short the



petitioner raises a grievance that though he has been granted promotion at different stages of his career from retrospective date but the financial benefits have been given to him prospectively with effect from the date of grant of such promotion. In other words, though notional benefits of such retrospective promotion have been given to the petitioner but the pecuniary benefits arising thereunder has been denied and which has led to filing of the present writ petition.

Mr. Jha, learned counsel appearing for the 'Council' while fairly accepting the legal position, submits that a recommendation on such lines had been made but since an objection was raised by the office of the Accountant General as manifest from the letter of the Accounts Superintendent enclosed at Annexure 'A' to the counter affidavit of the 'Council' as regarding payment of financial benefits for the retrospective period of promotion that the benefit was denied.

In the nature of the contest noted as well as the legal position on the issue, the outcome is a foregone conclusion because the position stands well settled in the judgments of this Court.

The brief facts leading to this contest as noted from the writ petition is, that the petitioner who was appointed as a Reporter on 30.01.1964 was given promotion in the Junior Selection Grade in the cadre of Reporter as Under Secretary (Reporting) (Junior Selection Grade) in the scale of Rs.1350-50-1700-2000/- with



special pay of Rs.200/- vide notification dated 25.02.1986 enclosed at Annexures 11 with effect from 01.04.1981 but the financial benefit was given with effect from the date of notification i.e. 25.02.1986. A communication in this regard was sent to the Accountant General vide letter dated 22.03.1986 at Annexure 12.

The petitioner was granted further promotion to the Senior Selection Grade in the cadre of Reporter on the post of Deputy Secretary (Reporting) (Senior Selection Grade) in the scale of Rs.3700-125-4700-150-5000/- with special pay as found admissible vide notification dated 15.06.1996 and 28.06.1999 at Annexures 20 and 22 respectively to the writ petition with effect from 01.03.1989 but since the petitioner had superannuated on 30.11.1990, hence even though notional benefits has been granted to the petitioner but the financial benefits were denied.

It is feeling aggrieved by such denial of financial benefits that the writ petition is filed and the petitioner prays for the following reliefs :-

- (a) Payment of monetary benefits of promotion to the Junior Selection Grade on the post of Under Secretary (Reporting) in the scale of Rs.1350-50-1700-2000/- with special pay of Rs.200/- with effect from 01.04.1981 until the date of notification i.e. 25.02.1986; and
- (b) Payment of monetary benefits on promotion to the Senior Selection Grade on the post of Deputy Secretary



(Reporting) in the scale of 3700-125-4700-150-5000/- with effect from 01.03.1989 until superannuation on 30.11.1990.

Mr. Jha, learned counsel appearing for the 'Council' while not disputing the legal position settled in the judgments of this Court submits that it is on account of objection raised by the Accountant General that the financial benefits for the retrospective period was denied.

Having heard learned counsel for the respondents, I find it rather surprising that despite numerous judgments on the issue raised and contested, yet the office of the Accountant General is oblivious of the interpretation of Rule 58 of the Bihar Service Code read alongside Rule 74 of the Bihar Financial Rules given by this Court and I am persuaded to refer to some of the judgments of this Court which draws the contest in favour of the petitioner :

- (i) **2005(1) BLJR 615 (Kamta Prasad Sharma Vs State of Bihar), paragraph 3, 4 and 7;**
- (ii) **2006 (4) PLJR 544 (Rajendra Paswan Vs State of Bihar), paragraph 6 to 11;**
- (iii) **2009(4) PLJR 776 (State of Bihar Vs Madan Bihari Singh), paragraphs 9 to 12; and**
- (iv) **2012(3) PLJR 55 (Madhu Sudan Prasad Vs State of Bihar) paragraphs 5 to 9, 14 and 15.**

The judicial pronouncements noted above would confirm the right vested in the petitioner to claim arrears of salary



on retrospective promotion for the retrospective period.

For the reason so discussed and in view of the legal position so well settled the writ petition is allowed. The concerned respondent authorities in the Bihar Legislative Council are accordingly directed to calculate the arrears of salary of the petitioner on his retrospective promotion to the Junior Selection Grade with effect from 01.04.1981 to 25.02.1986 and in the senior selection grade with effect from 01.03.1989 to 30.11.1990 and make payment of the same within a period of three months from today.

Since the claim of the petitioner is not being espoused by anyone, this Court would expect from Mr. Jha, learned counsel appearing for the ‘Council’, as an officer of this Court, to do the needful so that the benefit reaches the petitioner.

The writ petition is allowed with the directions and observations aforementioned.

(Jyoti Saran, J)

SKPathak/Anjula

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20-09-2018
Transmission Date	NA

