

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1750 of 2016

In

Civil Writ Jurisdiction Case No.13376 of 2014

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Arun Kumar Singh, Son of Late Ram Chandra Singh, resident of village-
Morsand, P.S. Runni Saidpur, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department. Government of Bihar, Patna.
3. The Agriculture Production Commissioner, Government of Bihar, Patna.
4. The Director, (Administration) Cum Additional Secretary, Agriculture Department, Government of Bihar, Patna.
5. The Principal Secretary, Finance Department, Government of Bihar, Patna.
6. Dr. Rajendra Prasad Central Agricultural University (Formerly Rajendra Agricultural University), Pusa, District- Samastipur, through its Registrar.
7. The Vice Chancellor, Dr. Rajendra Prasad Central Agricultural University (Formerly Rajendra Agricultural University), Pusa, District- Samastipur.
8. The Registrar, Dr. Rajendra Prasad Central Agricultural University (formerly Rajendra Agricultural University), Pusa, District- Samastipur.
9. The Director, Administration, Dr. Rajendra Prasad Central Agricultural University (formerly Rajendra Agricultural University), Pusa, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vaidehi Raman Prasad Singh, Adv.
For the Respondent/s	:	Mr. Sushil Kumar-GP-22
For D.R.P.C.A University	:	Mr. Arvind Ujjwal

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 11-04-2018

Heard learned counsel for the parties.

2. This Letter Patent Appeal is directed against the judgment and order dated 01.08.2016 passed in C.W.J.C. No. 13376 of 2014 by which writ petition filed by appellant has



been dismissed. Appellant had filed a writ petition for quashing the letter dated 12.03.2014 issued by Director (Administration)-Cum-Additional Secretary, Agriculture Department, Government of Bihar, Patna rejecting the claim of petitioner for revision of his pay scale with effect from 01.01.1996 on the basis of pre-revised pay scale and to grant him pay scale of Rs. 4500-7000 from 01.01.1996 notionally and from 01.04.1997 actually.

3. Briefly stated, the case of petitioner-appellant is that he was appointed as Subedar in Armed Force of India on 20.12.1972 and retired from armed force service on 31.12.2000 after serving in the army for 28 years.

4. The respondent Rajendra Agriculture University, PUSA published an advertisement No. 3/2001 inviting application for appointment on the post of Security Supervisor in the pay scale of Rs. 1400-2300/- as contained in Annexure-1 of writ petition and the requisite qualification was retired defence personnel in the rank of Subedar or equivalent and petitioner being eligible applied for the post.

5. Petitioner was temporarily appointed on 03.09.2001 on the post of Security Supervisor in the pay scale of Rs. 1400-2300/- . The petitioner joined on 04.09.2001 and since working



on the said post. Similarly there was a post of Assistant Security Supervisor in the pay scale of Rs. 13200-2040/- and qualification for said post was Hawaldar which is a rank lower to Subedar.

6. In the light of revision of pay scale of employees of State of Bihar with effect from 01.01.1996 by resolution dated 08.02.1999 and in the light of letter No. 3055 dated 12.10.2002 of Agriculture Department, the Vice Chancellor of University by letter no. 451 dated 23.05.2003 send proposal of revision of pay scale of Security Supervisor and Assistant Security Supervisor from Rs. 1400-2300 to Rs. 4500-7000/- and from Rs. 1320-2040 to 4000-6000 respectively and agriculture department by resolution dated 11.07.2003 revised the pay scale of employees of University with effect from 01.01.1996 and subsequently by resolution No. 4578 dated 14.10.2003 pay scale of remaining employees of the University was revised from 01.01.1996. However, in said notifications pre-revised pay scale of Security Supervisor and Assistant Security Supervisor has been shown as Rs. 1320-2040 and its replacement scale as Rs. 4000-6000/- and accordingly Vice Chancellor of the University vide office order No. 571 dated 16.10.2003 revised the pay scale of employees with effect from 01.01.1996 notionally and 01.04.1997 actually.



7. Petitioner filed several representation before the Chancellor of University duly forwarded by the authorities for removal of anomaly in the matter of fixation of revised pay scale and to grant him the pay scale of Rs. 4500-7000/- from 01.01.1996 notionally and 01.04.1997 actually but no action was taken upon such representation.

8. Petitioner had earlier filed C.W.J.C. No. 7965 of 2005 which was disposed of on 11.03.2008 with a direction to respondent Nos. 2 to 4 to consider the representation of petitioner and pass a reasoned order within three months and in pursuant thereto the Director, Administration of University by his letter No. 959 dated 15.07.2009 requested the Agriculture production Commissioner, Government of Bihar (Annexure-8) to remove the anomaly in fixation of pay scale of petitioner drawing attention of the authorities that in resolution No. 3046 dated 11.07.2003 of Agriculture Department the pre-revised pay scale of petitioner was shown as Rs. 1320-2040 in place of Rs. 1400-2300 as such, the revised pay scale of petitioner has wrongly been fixed as Rs. 4000-6000 whereas it should be 4,500-7000/- .

9. The issue raised in this appeal does not require much deliberation or any expertise in financial or pay revision matters.



The anomaly which has crept in is purely due to over sight or typographical error. Petitioner was appointed on the post of Security Supervisor in the pay scale of 1400-2300/- in the pre-revised pay scale. The revised pay scale of 1400-2300/- is Rs. 4500-7000. While making recommendation the University has stated pay scale of petitioner to be 1400-2300 while that of Assistant Security Supervisor as 1320-2040. However, while issuing notification by the department of Agriculture, Government of Bihar it has treated pay scale of Security Supervisor as well as Assistant Security Supervisor to be 1320-2040 as such for the both posts the Agriculture Department has given replacement scale as 4000-6000 which is an apparent error, which requires to be rectified. By the impugned order in the writ petition as contained in Annexure- 8 and 9 it has been advised by the department of Finance, Government of Bihar that pay revision from 01.01.1996 has been done as per Central pay scale where pay revision has been made from post to post and not pay scale to pay scale which is totally irrelevant to the issue involved in this case.

10. After hearing the parties and considering the material available on record it is admitted that there are two posts of Security Supervisor and Assistant Security Supervisor having



two different pay scales and two different qualifications and Security Supervisor post is of higher rank and higher pay scale and higher eligibility, as such both cannot be equated and accordingly revised pay scale of both posts cannot be similar. The University had also recommended pre-revised pay scale for two posts as 1400-2300 and 1030-2040 but by mistake or oversight the agriculture department has treated pre-revised pay scale for both the posts as 1320-2040 which is an apparent error and requires to be corrected. Even according to opinion given by the Finance Department pay revision is post to post in that situation also the revised pay scale of petitioner will be Rs. 4,500-7000/- which is being denied to petitioner for no reasons.

11. The appeal is allowed and respondents are directed to treat the revised pay scale of petitioner to be Rs. 4,500-7000 from 01.01.1996 notionally and 01.04.1997 actually and grant him all consequential benefits including difference of salary and other monetary benefits and also to treat his pay scale as Rs. 4,500- 7000 while determining subsequent pay revision of petitioner within 3 months from date of production/receipt of a copy of this order by respondent No. 3 Agriculture Production Commissioner, Government of Bihar, Patna.

12. Accordingly the order passed by the writ court



dated 01.08.2016 passed in C.W.J.C. No. 13376 of 2014 is set
aside and L.P.A. is allowed.

(Dr. Ravi Ranjan, J.)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.06.2018
Transmission Date	N.A.

