

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14893 of 2017

Birendra Singh S/o- late Jay Prakash Singh Resident of Vill- Sambhika Nagar,
Lal Colony, Dehri -on-Sone, P.S. Sambhikha Path Dehri District- Rohtas,
Bihar.

... .. Petitioner/s

Versus

1. The General Manager (Human Resource And Administration) Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
2. The Deputy General Manager(Human Resource and Administration) South Bihar Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager-Cum-Chief Engineer, South Bihar Power Distribution Company Ltd., Patna.
4. The General Manager-cum-Electric Superintending Engineer, Magadh Electric Supply Area, Gaya.
5. The Senior Manager(Personnel) Magadh Electric Supply Area , Gaya.
6. The Electric Superintending Engineer, Electric Supply Circle, Sasaram.
7. The Executive Engineer, Electric Superintending Engineer, Electric Supply Division, Dehri, Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Dubey Mrs. Mamta Vijaya Mr. Umashankar Singh
For the Respondent/s	:	Mr. Vinay Kirti Singh Mr. Akhileshwar Singh Mr. Vijay Kumar Verma

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT
Date : 04-05-2018

The petitioner by way of the present writ petition has prayed for directing the respondent to fix the retirement benefits in the pay-scale of Rs. 29,570/- with all consequential benefits, since the juniors to the petitioner, after retirement, are getting pension and other retiral dues on the basis of the said pay-scale, however, the petitioner was allowed to retire in the lower pay-scale of Rs. 28,860/-.

The brief facts of the case are that the petitioner herein was appointed on the post of Security Guard by an order dated



19.11.1973 and he joined on 30.10.1974. Thereafter, the petitioner was appointed on the post of Correspondence Clerk vide order dated 05.08.1997 and was granted selection grade after completion of 10 years of service vide Memo dated 26.09.1988. The petitioner had then cleared the Clerical Grade-IV examination held on 20.12.1987 as also the Hindi Noting Departmental Examination held on 17.01.1993 whereafter he was granted Super Selection Grade vide Memo No. 28.11.1995 in the pay-scale of Rs. 1500-2660/- with effect from 06.08.1995. The petitioner was then promoted on the post of Head Clerk in the pay-scale of Rs. 47,20-9048 vide office order dated 29.03.2007, issued by the Chairman, State Electricity Board, Ranchi. However, subsequently, the petitioner was allocated the cadre in the State of Bihar vide notification dated 02.12.2008 and he was posted in the office of Magadh Electric Supply Area, Gaya on the post of Correspondence Clerk in the pay-scale of Rs. 4720-6070 vide Memo dated 02.01.2009, after being demoted from the post of Head Clerk without assigning any reason and then the petitioner retired from the services of the respondents on 31.07.2014 from the post of Correspondence Clerk.

The learned counsel for the petitioner submits that after



retirement, on several occasions the last salary drawn by the petitioner was fixed at Rs. 28,860/- vide office order dated 31.09.2015 and 06.10.2015. The learned counsel for the petitioner submits that the respondents have faltered in fixing the correct pay-scale of the petitioner herein and in fact one Dinesh Kumar Singh, who is junior to the petitioner herein and who had joined the services on 01.09.1977 on the post of Typist-cum-Clerk and had retired on 31.05.2015, was getting last pay @ of Rs. 29,570/- as well as he has been paid all the retiral benefits on the basis of the said pay-scale whereas the petitioner who retired on 31.07.2014 has been paid the retiral dues on the basis of the pay-scale of Rs. 28,860/-.

The learned counsel for the respondents, referring to the counter affidavit has submitted that the promotion of the petitioner on the post of Head Clerk granted vide office order dated 29.03.2007 by the Chairman, State Electricity Board, Ranchi was purely provisional till the final division of Cadre in between the State of Jharkhand and the State of Bihar, hence there is no discrepancy in reverting the petitioner on the post of Correspondence Clerk.

I have heard the learned counsel for the parties and considered the materials on record and I find that the



respondents have evaded any specific reply to paragraph no. 20 of the counter affidavit wherein the petitioner has relied upon the case of one Dinesh Kumar Singh, as discussed hereinabove, and the entire history and pay fixation chart of the said Dinesh Kumar Singh has also been annexed as Annexure-14 to the writ petition to contend that at least the petitioner was entitled to the same amount of last pay, as drawn by the said Dinesh Kumar Singh, who is junior to him, and accordingly, the pay scale of Rs. 29,570/- ought to have been taken into account for the purposes of grant of retiral dues to the petitioner herein.

In view of the rival contentions of the parties, I deem it fit and proper to remand the matter to the respondent no. 3 to consider the case of the petitioner in light of the benefits granted to the said Dinesh Kumar Singh and take a final decision and pass a reasoned and speaking order on the issue of entitlement of the petitioner for payment of retiral benefits on the basis of the last pay drawn of Rs. 29,570/-.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	26.04.2018
Uploading Date	09.05.2018
Transmission Date	

