

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12445 of 2011

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1. Jwala Prasad Singh S/O Sri Loknath Singh R/O Vill. Ranipur, P.S. Paliganj,
Distt.- Patna At Present Posted At Upper Division Clerk In The Office Of Joint
Registrar , Co- Operative Societies,Patna Division,Patna

.... Petitioner/s

Versus

1. The State Of Bihar Thru. Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Dept. Of Finance, Govt. Of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Dept. Of Co- Operative, Govt. Of Bihar, New Secretariat Patna
4. The Registrar, Department Of Co-Operative ,Govt. Of Bihar, New Secretariat ,Patna
5. The Joint Registrar, Co-Operative Societies, Patna Division ,Patna
6. The Deputy Registrar, Co-Operative Societies, Patna Division, Patna
7. The Collector -Cum -District Magistrate, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ADITYA NARAIN SINGH
For the State : Mr. Raghwanand, GA-11
Dr. Kamaldeo Sharma, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 02-07-2018

Heard learned counsel for the petitioner and learned
counsel representing the State.

This writ application has been preferred for a direction to
the respondent- authorities to issue an appropriate order for benefits of
fixation of pay in terms of the policy decision appearing in Memo.
No. 1235 dated 26-02-2004 issued by the Government of Bihar,
Department of Cooperative.

Learned counsel for the petitioner submits that by way of
policy decision as contained in Memo. No. 1235 dated 26-02-2004,



the State Government decided to give weightage of past service of the petitioner and others similarly situated, who were working as Paid-Manager of Primary Agricultural Credit Society (PACS) and were later on, taken in Government service against Class III posts. Learned Counsel for the petitioner submits that in terms of the policy decision the petitioner would be entitled for the benefits of fixation of pay etc. However, the same has not been done and therefore, the petitioner has been deprived of the benefits, which would accrue to him by virtue of the policy decision. In course of argument learned counsel has drawn the attention of this Court towards the order dated 29-06-2009 passed by learned Writ Court in C.W.J.C No. 2190 of 2005 and C.W.J.C No. 8490 of 2002.

It appears that a similar question had fallen for consideration before the learned writ Court and the learned Writ Court had gone through the policy decision of the Government as contained in Memo. No 1235 date 26-02-2004.

Having gone through the materials available on record and upon consideration of the submissions advanced at the bar, the learned writ Court in the operative part of its order held as under :

“This Court, therefore, would hold that this part of the grievance of the petitioner should be in the first instance looked into by the State Government and therefore, if the petitioners would file their individual



representation and explain as to what monetary benefit on account of the impugned order can be claimed by them in terms of Rule 78 of the Bihar Service Code or any other statutory rules, the same would receive immediate consideration of the State Government. As the Government had decided to give them benefit of past service and seniority of certain number of years of service as specified in the impugned order, it is under obligation to consider grant of notional pay fixation on the date of their initial appointment by putting them on a higher basic pay in the pay scale by advancing number of increment for which they would qualify on the basis of their past service in terms of the impugned order. It has to be only recorded that the counsel for the petitioners have conceded that if such notional pay fixation is made in the case of the petitioners in terms of the impugned order they will have no grievance against the impugned order.

Further it appears that the order passed by the learned Writ Court in the aforesaid writ applications, was subject matter of the Letters Patent Appeal bearing No. 1159 of 2009 which was disposed of by Hon'ble Division Bench of this Court vide order dated 03-03-2010. The Hon'ble Division Bench refused to interfere with the order of the learned Writ Court and while disposing of the appeal, the Division Bench observed as under:



“It goes without saying that all the benefits flowing from the decision of the authorities should be made available to the beneficiaries including the appellants expeditiously and without any delay, by the authorities themselves”.

The grievance of learned counsel representing the petitioner is that even though this petitioner has made representation vide Annexure-7 to the writ application and a request has been made to the respondents-authorities to take a decision keeping in mind the order of this Court passed in C.W.J.C 2190 of 2005 and L.P.A No. 1159 of 2009, till date, no decision has been taken by the authorities and in the meantime the petitioner has been made to retire from service on 31-03-2013. It is submitted that even though the petitioner has been paid his retirement benefit, the monetary benefits arising out of the policy decision of the Government as contained in aforesaid Memo No. 1235 dated 26-02-2004 has not been made available to the petitioner till date.

On the other hand, learned counsel representing the respondent No. 4 submits that the petitioner was initially appointed as paid manager in PACS but in view of the judgment of the Hon'ble Apex Court in Civil Appeal No. 7357 of 1996, he appeared in the limited examination and was appointed on Class-III posts by the State Government vide order as contained in Annexure-6 to the writ



application. The stand of the respondent so far as claim of the petitioner regarding basic pay by advancing increments is concerned, Letter No. 1235 dated 26-02-2004 does not speak about the claim of the petitioner rather it talks only fixation of seniority in the service of the petitioner. It is submitted that the petitioner had already been paid his retirement benefits.

Having considered the rival submissions, made at the bar and upon perusal of the records, this court finds that in the light of the judgment of the learned Writ Court and the Hon'ble Division Bench as contained in Annexures 8 and 9 respectively to the writ petition, the respondents-authorities are obliged to consider the representation of the petitioner and dispose of the same by a reasoned order. The Writ Court had directed to examine the individual case on filing of the representation through an appropriate channel. This Court would therefore, direct that the representation of the petitioner as contained in Annexure-7 to the writ application be also considered keeping in mind the observations and directions of the learned Writ Court in the order as contained in Annexure 8 and 9 to the writ application. The concerned authorities as indicated in the order (Annexure-8) shall pass appropriate order on the representation of the petitioner within a period of three months from today. If the copy of the representation as contained in Annexure-7 is not found available in the office of the



respondents, the copy attached with the present writ application may be treated as representation of the petitioner for purpose of passing appropriate order as directed by this court.

This writ application stands dispose of with the above said observations.

(Rajeev Ranjan Prasad, J)

A.K.V./R.S.Sen-

AFR/NAFR	
CAV DATE	NA
Uploading Date	05-07-2018
Transmission Date	

