

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1158 of 2015
IN
Civil Writ Jurisdiction Case No. 23583 of 2013**

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Dr. Usha Kiran Narain W/o Sri Abhay Shankar Singh, resident of Road No. 6,
Rajendra Nagar, P.S. Kadam Kuan, Distt. – Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar having his office at Old Secretariat, P.S. Sachivalaya, Distt. – Patna.
2. The Principal Secretary, Human Resources Development Department (Higher Education), Government of Bihar having his office at Vikas Bhawan, P.S. Sachivalaya, Distt. – Patna.
3. The Principal Secretary, Finance Department having his office at Old Secretariat, P.S. Sachivalaya, District – Patna.
4. The Director, Human Resources Development Department (Higher Education) having his office at Secretariat (Vikas Bhawan), P.S. Sachivalaya, Distt. – Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukeshwar Dayal, Adv.
Mr. Vikas Mohan, Adv.

For the Respondent/s : Mr. Shiv Kumar, AC to GA-3.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)
Date: 11-09-2018

Heard Mr. Mukeshwar Dayal, learned counsel appearing
for the appellant along with Mr. Vikas Mohan, the Advocate on
record and Mr. Shiv Kumar, learned Assisting Counsel to
Government Advocate No.3 for the State.

This intra-Court appeal arises from the judgment and
order dated 29.04.2015 of a learned Single Judge passed in CWJC
No.23583 of 2013, whereby the writ petition has been dismissed.

We have heard learned counsel for the parties and we



have perused the records.

The grievance as noted from the pleadings of the writ petition and the appeal herein as well advanced by Mr. Dayal, learned counsel appearing for the appellant-petitioner is that while the appellant-petitioner has been given first time bound promotion in the scale of Rs.3000-5000/-, a similarly placed teacher namely Putul Rani has been given a higher scale of Rs.3700-5700/-.

The respondents filed counter affidavit in writ proceedings to state that while the appellant-petitioner has been given the correct scale, the scale given to Putul Rani was incorrect and without approval of the Finance Department as well. It is taking note of the circumstances existing and the explanation given by the respondents that the writ petition was dismissed. Feeling aggrieved the writ petitioner is before this Court raising the same issue of discrimination.

While taking note of the well settled principle that Article 14 of the Constitution cannot have a reverse application and in case any person has been given benefit erroneously, that cannot be a measure for seeking similar benefit, we also take notice of the statement made by the respondents in the counter affidavit filed in appeal more particularly paragraphs 12 and 13, in which it is stated that the grant of pay-scale to Putul Rani on time bound promotion, is



incorrect and without sanction of the Finance Department. It is explained that steps have been taken for rectification of mistake which would be done within eight weeks.

In the circumstances noted, we find no infirmity in the opinion expressed by the learned Single Judge requiring interference and at the same time taking note of the admission of the respondents as regarding the error in grant of scale to Putul Rani, we are of the opinion that the appellant-petitioner cannot complain of discrimination.

The appeal is accordingly dismissed.

(Jyoti Saran, J)

SKPathak/Anjula

(Nilu Agrawal, J)

AFR/NAFR	NAFR
CAV DATE	NA
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