

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16971 of 2007

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Doman Gope, son of Shripati Gope, resident of Village Khaprail Chak, P.S. Parsa Bazar, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary to the Government of Bihar, Cooperative Department, Patna
2. The Registrar Cooperative Societies, Bihar, Patna
3. The Managing Director, Bihar State Cooperative Marketing Union Ltd. (BISCOMAUN), West of Gandhi Maidan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Pandey
For BISCOMAUN : Mr. Vikash Kumar
For the State : Mr. Kindar Kumar, SC 9
Mr. Yogesh Kumar, AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-03-2018

Heard the parties.

Limited grievance has been raised by the petitioner that he should be given the revision of scale of pay as was given to the employees of the BISCOMAUN during the period from 14.11.1996 to 8.5.2008 and he has also made a prayer that he was never given annual increment and other allowances though he was/is entitled to the same as per service condition applicable to the employees of the BISCOMAUN.]

The short fact of the case is that the petitioner was an employee of BISCOMAUN but he was sent on deputation in the Co-operative Department vide Memo No. 2958 dated



13.11.1996 (Annexure-1) wherein it has been mentioned that the petitioner was sent on deputation there till further order and payment would be made from the Head Office. It has further been said on termination of the deputation, he will receive salary from parent department. Claim has been made by the petitioner that he was paid the salary on the basis of the last pay certificate but deprived enhancement of salary what he was getting at par with employee of Biscomaun though from time to time BISCOMAUN informed the Co-operative Department about enhancement of pay scale but ignoring all the requests of the Biscomaun the petitioner was always paid salary on the basis of the last pay certificate whereas Co-operative Department was required to make payment at par with employees of BISCOMAUN and he can not put to stagnation of scale i.e. last pay withdrawn and he is also entitled to the annual increment. The Secretary BISCOMAUN vide letter dated 26.6.2003 informed that next date of annual increment will be on 1.3.1996 but ignoring all the petitioner was not paid even annual increment but continued to pay as per last pay certificate, having claimed it is completely colourable exercise of power depriving the petitioner the enhancement of salary including annual increment at par with employees of the BISCOMAUN. Accordingly the



petitioner remained in lurch.

Learned counsel for the State submits that according to the last pay certificate petitioner was paid which has not been denied by the petitioner inasmuch as he is not entitled to over and above what has been mentioned in the last pay certificate.

Having considered the rival contentions of the parties petitioner was sent on deputation so the condition of the service which is applicable in the BISCOMAUN will be equally applicable to the petitioner and whenever there will be revision of pay of the employees of BISCONAUN equally he was entitled to equal increment in the pay of the petitioner. But the fact in the present case is that in 2008 service of the petitioner was returned back to BISCOMAUN and petitioner is not claiming that he should have been regularized in the service of the State Government alike to other employees who were sent on deputation and later on the Government has already regularized them but prayer has been confined for payment of salary at par with the employee of BISCOMAUN during that period. It is a fact that if the employee sent to deputation he cannot be put in lurch and continued to receive payment as last pay certificate issued by parent department, certainly he was entitled to receive increment in the salary and annual increment as was applicable to



the employee of the parent department and he cannot be deprived in a manner that neither he will be entitled for salary of BISCOMAUN nor the salary which was made available to the State Government.

In such view of the matter, the State Government is directed to fix the salary in terms of the increased in the salary of employees of BISCOMAUN and also give annual increment to the petitioner and after making proper exercise pay difference of amount within six months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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