

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.90 of 2016

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1. Murari Poddar, S/o Late Ram Narayan Poddar, Resident of Village- Gaura-1,
P.S.- Teghra, District- Begusarai. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Patna.
2. The Bihar State Commission for Backward Classes through its Chairman Quarter No. 89-92/40, Opposite 12 A, Jawaharlal Nehru Marg, P.S.- Shastrinagar, District- Patna.
3. The Chairman, the Bihar State Commission for Backward Classes, Quarter No. 89-92/40, Opposite 12 A, Jawaharlal Nehru Marg, P.S.- Shastrinagar, District- Patna.
4. The Member Secretary, the Bihar State Commission for Backward Classes, Quarter No. 89-92/40, Opposite 12 A, Jawaharlal Nehru Marg, P.S.- Shastrinagar, District- Patna.
5. The Bhojpuri Academy, 742/800, Shastri Nagar, P.S.- Shashtri Nagar, District Patna through its Chairman.
6. The Director, Bhojpuri Academy, 742/800, Shastri Nagar, P.S.- Shashtri Nagar, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Naresh Kumar Malhotra, Sr. Adv. Mr. Binod Kumar Sinha
For the Respondent/s	:	Mr. Saroj Kumar Sharma, A.C. to AAG 3 Mr. Kumar Alok, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-06-2018

Heard Mr. Naresh Kumar Malhotra learned Senior counsel appearing for the petitioner and Mr. Kumar Alok learned counsel for the Backward Commission.

Though served, the Bhojpuri Academy has not registered appearance. State is represented through Mr. Saroj Kumar Sharma, AC to AAG-3.

The petitioner seeks a direction to the respondent authorities of



the Bihar State Commission for Backward Classes (hereinafter referred to as 'the Commission') for making payment of the differential salary of the petitioner after implementation of the 5th Pay Revision Commission recommendation for the period 25.05.2002 until 04.11.2015 that is when the petitioner served 'the Commission' on deputation.

The facts are not in dispute and it is not in disputed that it is by virtue of the orders present at Annexures- 1 to 3 to the writ petition that the petitioner was sent on deputation to 'the Commission' where he joined on 25.05.2002 and served until 04.11.2015 when his services were returned to the Bhojpuri Academy.

Espousing the cause of the petitioner, Mr. Malhotra learned senior counsel relies upon Annexure-S/1 to the supplementary affidavit filed today to submit that the 5th pay Revision recommendation was implemented in the case of the petitioner by the Bhojpuri Academy belatedly but nonetheless he has been paid the differential salary by the Academy for the period 01.04.1997 until 24.05.2002 that is when he went on deputation to 'the Commission' and continues with the revised salary accordingly, on return but, for the period the petitioner remained on the deputation with the Commission, this differential amount which has to be paid by the



Commission, has not been paid and hence, the writ petition.

Mr. Kumar Alok has relied upon the conditions of deputation at Annexure-1 to the writ petition to submit that whatever the petitioner was drawing with the Academy has been paid to him and since the differential salary by virtue of implementation of the 5th Pay Revision has been paid to the petitioner by the Academy on his return back in the year 2015, the liability arising for the deputation period would require to be discussed.

I have heard learned counsel for the parties and I have perused the records.

The condition of deputation as spelt out in the deputation order issued by Department of Personnel and Administrative Reforms bearing No. 146 dated 10.04.2002 entitles the petitioner to the same pay scales and allowances as he was drawing with his parent Department i.e Bhojpuri Academy. There is no dispute on that and in fact it is by virtue of this position that the petitioner was paid salary on the same pay scale during his deputation period. The dispute has arisen because it is while the petitioner was serving 'the Commission' on deputation that a decision has been taken by the Academy to implement the 5th Pay Revision recommendation and since no intimation was made to 'the Commission' that it was never acted upon



in the case of the petitioner. In between, as informed by Mr. Kumar Alok, that services of the petitioner was terminated by the Academy but the termination order has since been recalled.

Be that as it may, the facts remains that the petitioner remained with 'the Commission' by virtue of the deputation order dated 10.04.2002 and the relieving order dated 24.05.2002 at Annexure-3. The petitioner gave his joining on 25.05.2002 and has remained with the Commission until he was relieved to join his parent Department i.e. the Bhojpuri Academy on 04.11.2015. Annexure- S to the supplementary affidavit filed today leaves no room for confusion that the 5th Pay Revision recommendation was implemented in the case of the petitioner after his return to the Academy and the differential amount for the period spent by the petitioner with the Academy before going on deputation, has been paid to him, the break up of which is enclosed at Annexure- S/1. According to Mr. Malhotra since the terms and conditions of deputation obliges 'the Commission' to make payment of the salary of the petitioner on the same pay scale and allowances which was allowed by his parent Department, since admittedly by virtue of the implementation of the 5th Pay Revision, the academy has made payment of the differential salary for the period the petitioner remained with the academy, the differential



salary for the period of deputation would have to be paid by 'the Commission'.

Though Mr. Alok makes request for accommodation to take instructions in view of the developments placed on record by supplementary affidavit filed today, but in my opinion since the matter requires to be deliberated by 'the Commission' itself in the light of the developments placed on record and taken note of hereinabove, no purpose would be served in keeping the writ petition pending.

In my opinion thus, it would be appropriate that the matter is remitted to the appropriate authority i.e. the Bihar State Commission of Backward Classes, to consider the grievance of the petitioner for payment of differential salary by virtue of the implementation of the 5th Pay revision recommendation for the deputation period that is 25.05.2002 to 04.11.2015 bearing in mind its implementation by the Academy at Annexure-S dated 17.02.2014 as well as the differential amount paid to the petitioner at Annexure S/1.

Accordingly, I would be directing the petitioner to file his claim before the Secretary of 'the Commission' together with a supportive documents and the copy of the order passed by this Court and it goes without saying that the claim so put forth by the petitioner would be



considered by the Secretary or the authority competent to do so and be disposed of by a speaking order, to be passed within 3 months of filing of such application.

This disposes of the writ petition.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.07.2018
Transmission Date	NA

