

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.445 of 2018  
IN  
Civil Writ Jurisdiction Case No. 22353 of 2013**

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Nagendra Prasad Thakur S/O Late Ram Khelawan Singh Resident Of Mohalla-  
Paijawapur, P.S- Barh, District- Patna.

.... .... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department Government Of Bihar, Patna.
3. The Joint Secretary, Finance Department, Government Of Bihar, Patna.
4. The Director In- Chief, Health Services, Bihar, Patna.
5. The Civil Surgeon- Cum- Chief Medical Officer, Patna.
6. The Deputy Superintendent of Sub- Divisional Hospital Barh, Patna.
7. The Accountant General, Bihar, Patna.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Tripurari Nath Amastha

For the Respondent/s : Mr. S.D. YADAV- AAG9

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

**Date: 02-05-2018**

**Re.: I.A. No. 3163 of 2018**

Delay of 27 days in filing of the Letters Patent  
Appeal is condoned.

Accordingly, I.A. No. 3163 of 2018 is allowed.

**Re. : L.P.A. No. 445 of 2018**

This intra-court appeal has been preferred for setting  
aside the judgment dated 29.01.2018 passed by the learned writ court  
in Civil Writ Jurisdiction Case No. 22353 of 2013 by which the



learned writ court while holding that the petitioner would also be entitled for higher pay scale as granted to similarly situated persons who were matriculate on 01.04.1986 after the State Government accepted the recommendation of the Pay Anomaly Committee, simultaneously held that since the petitioner has approached this court in 2011, as such, he is entitled for arrears of difference of salary from 01.04.2008.

Learned counsel representing the writ petitioner-appellant has challenged the judgment of the learned writ court only to the extent the writ court has not allowed the arrear of salary as claimed by the writ petitioner *w.e.f.* 1<sup>st</sup> April, 1986. It is the contention of the appellant that once the learned writ court found that the petitioner is also entitled for the same pay scale, the writ court should have allowed the benefits of the higher pay scale *w.e.f.* 01.04.1986.

On the other hand learned counsel representing the State submits that the reliefs prayed in the writ application are in the nature of discretionary reliefs which may be granted by a writ court in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India. In the present case the claim of the petitioner for higher scale was rejected by the Civil Surgeon-cum-Chief Medical Officer, Patna vide Memo No. 758 dated 02.02.2013 on two grounds :-



(i) That the petitioner did not take any permission to appear in the matriculation exam and;

(ii) That the petitioner has produced no evidence to support that at the relevant time the certificate issued by the Hindi Vidyapith, Deoghar was recognized by the State Government.

In these circumstances the petitioner who has already superannuated *w.e.f.* 31.03.2013 when filed the writ application, the learned writ court taking note of the fact that the petitioner had moved this court for the first time vide C.W.J.C. No. 16378 of 2011, disposed of on 15.11.2011, restricted the relief on account of arrears of difference of salary from 01.04.2008, thus giving the benefit to the petitioner for a period *w.e.f.* 3 years prior to his moving this court under Article 226 of the Constitution of India. Learned writ court has in our opinion taken a reasonable view of the matter by restricting such reliefs.

Having considered in the rivals submission at the bar, we are of the considered opinion that in the facts and circumstances of the present case where it has been found that the petitioner for the first time approached this court only in the year 2011 claiming higher pay scale *w.e.f.* 01.04.1986 and the writ court directed the Civil Surgeon-cum-Chief Medical Officer, Patna to take a final decision on the claim of the petitioner within a period of three weeks, while granting relief



to the petitioner in this writ application the learned writ court has rightly restricted the reliefs of granting difference of salary *w.e.f.* 01.04.2008. The discretion applied by the learned writ court is reasonable and cannot be found fault with.

We are, therefore, not inclined to interfere with the impugned judgment as regards the period to which relief has been restricted by the learned writ court. The Letters Patent Appeal has no merit, it is accordingly dismissed.

**(Rajendra Menon, CJ)**

**(Rajeev Ranjan Prasad, J)**

Ved/-

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