

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11237 of 2015

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Mangla Nand Pandey, son of late Raj Ballabh Pandey, resident of Village and
P.O.- Barauli, P.S.- Jamhore, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The Director, Secondary Education, Human Resources Development
Department, Government of Bihar, Patna.
4. The District Education Officer, Aurangabad.
5. The Sub-Divisional Education Officer, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Nandan Prasad, Advocate
For the Respondent/s	:	Mr. Ajay Kumar Singh, Mr. S. S. P. Yadav, SC-14

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 10-12-2018

Heard learned counsel for the petitioner and the respondents.

2. Learned counsel appearing on behalf of the petitioner submits that the respondents cannot adopt pick and choose method in grant of senior selection scale to similarly circumstanced and deny the same to the petitioner. He further submits that the petitioner has acquired qualification for grant of Graduate Trained Scale in 1983 itself, but the respondents have granted such benefit to others, but denied the same to the petitioner. He further submits that arbitrarily Rs. 7754/- was deducted from the salary of the petitioner in 30 installments. He submits that the respondents have



also made a pick and choose and denied the arrears of revised pay scale for the period 12.11.1973 to 01.05.1977.

3. In the counter affidavit, there is no averment, so far as the prayer for grant of arrears for the period 12.11.1973 to 01.05.1977 is concerned.

4. Earlier, the petitioner was granted liberty by this Court to agitate such issue before the appropriate authority. From the counter affidavit, it appears that the benefit of Post Graduate Trained Scale was available only up to 1978 and the petitioner has acquired such qualification in the year 1983 and, as such, the Court does not find any infirmity in the order passed by the respondents in refusing to grant Post-Graduate Trained Scale.

5. So far as the factual controversy as to payment of arrears for the period 12.11.1973 to 01.05.1977 is concerned, the respondents have to verify the record and if the petitioner was not paid the salary for the aforesaid period, necessary decision must be taken for payment of salary for the aforesaid period, if the petitioner has worked for the aforesaid period.

6. The grievance as to benefit of pay revision is concerned, the petitioner is granted liberty to file a fresh representation addressed to the Director, Secondary Education, who shall cause an inquiry into the claim of the petitioner and if



the benefit of revised pay scale was granted to the similarly circumstanced others, he shall ensure payment of the same to the petitioner also following the Bihar Litigation Policy, 2011, particularly, para 4 (c) and the judgment of the Full Bench of this Court reported in 2018 (2) PLJR 929.

7. Necessary decision in this regard must be taken by the Director, Secondary Education within a maximum period of four months from the date of receipt/production of a copy of this order.

8. In the event, the Director, Secondary Education finds that the claim of the petitioner is similar to those who have been granted the benefit, the monetary benefit must be extended to the petitioner within the aforesaid period. In case, the Director, Secondary Education finds that the case of the petitioner is distinguishable on facts and law he shall pass reasoned order rejecting the claim of the petitioner within the aforesaid period.

9. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2018
Transmission Date	

