

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5276 of 2019

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Ramawtar Pandey, Son of Late Jita Pandey, Resident of Village-Singarpur,
P.O. Sahar, District-Lakhisarai

... .. Petitioner/s

Versus

1. Bihar State Power Holding Company Ltd. through its Managing Director,
Vidyut Bhawan, Patna
2. The Managing Director, Bihar State Power Holding Company Ltd. Vidyut
Bhawan, Patna
3. The Secretary, Bihar State Power Holding Company Ltd. Vidyut Bhawan
Patna
4. The Accounts Officer, Bihar State Power Holding Company Ltd. Vidyut
Bhawan, Patna
5. The Senior Manager/Finance and Accounts, Electricity Supply Division,
Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gaurav Govind, Advocate
For the Respondent/s : Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 03-04-2019

Heard learned counsel for the petitioner and learned
counsel appearing for the Bihar State Power Holding Company
Ltd., Vidyut Bhawan, Patna (hereinafter referred to as the
'BSPHC').

2. Petitioner in the present writ application seeks
payment of pension at par with other pensioners @ Rs. 3,500/- per
month with effect from 01.04.2007, which is the minimum pension
fixed by the State of Bihar for its employees after the 6th CPC. He
submits that minimum pension is being given to the employees of
the State Government, but the petitioner is receiving Rs. 2,924/-



which is below the minimum pension fixed by the State Government.

3. Learned counsel for the BSPHC submits that the petitioner was dismissed from service, who had preferred a writ application being C.W.J.C. No. 2808 of 1996 before this Court and while disposing of the writ application by its judgment dated 23.12.1998 this Court had been pleased to remit the matter to the Secretary of the erstwhile Board to consider the representation of the petitioner. The representation of the petitioner was considered sympathetically and on mercy and compassion 40% of the pension and gratuity was granted to the petitioner as compassionate allowance under Rule 46 of the Bihar Pension Rules, 1950. It was a mercy appeal and petitioner was granted compassionate allowance by the Secretary of the erstwhile Board while disposing of the representation of the petitioner vide Memo No. 806 dated 27.03.1999, as contained in Annexure-1 to the writ application. Petitioner was granted 40 % of the pension as per Rule 46 of the Bihar Pension Rules, as such, he cannot claim parity with other pensioners wherein minimum of Rs. 3,500/- has been fixed by the State Government.

4. I have gone through the pleadings made by the parties and also Rule 46 of the Bihar Pension Rules, which is quoted hereinbelow :



“46. No pension may be granted to a Government servant dismissed or removed, for misconduct; insolvency or inefficiency; but to Government servant so dismissed or removed compassionate allowances may be granted when they are deserving of special consideration; provided that the allowance granted to any Government servant, shall not exceed two third of the pension which would have been admissible to him if he had retired on medical certificate. [This rule took effect from the 18th June, 1935].”

5. From the plain reading of the aforesaid rule, it is evident that a Government servant, on special consideration, may be allowed compassionate allowance which does not exceed two third of the pension, which would have been admissible to him if he had retired on medical certificate. No other postulate is there for granting compassionate allowance. The Secretary of the erstwhile Board had granted 40% of compassionate allowance of pension and gratuity, which calls for no interference.

6. The writ application is, accordingly, dismissed.

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.04.2019
Transmission Date	NA

