

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1381 of 2015

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Ganesh Prasad Karn, son of Late Srikant Prasad Karn, resident of B B Ganj,
Near National Highway, Bhagwanpur, P.S. Sadar, District Muzaffarpur.

... petitioner ... Appellant/s

Versus

1. The State of Bihar, through Commissioner cum Secretary, Department of Food Supply and Commerce, Government of Bihar, Patna.
2. The Commissioner cum Principal Secretary, Department of Food Supply and Commerce, Government of Bihar, Patna.
3. The Under Secretary, Food Supply and Commerce, Government of Bihar Patna.
4. The Deputy Secretary, Food Supply and Commerce, Government of Bihar Patna.
5. The Sub Divisional Officer, East, Muzaffarpur, Bihar.
6. The Accountant General, Bihar, Patna.

... Respondents... Respondent/s

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Appearance :

For the Appellant/s : None.

For the Respondent-State : Mr. Jitendra Kumar Roy, SC-13.

For the Respondent-AG : Mr. Raghwanand, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 21-01-2019

None appears on behalf of the appellant. Mr. Jitendra Kumar Roy, learned Standing Counsel No.13 appears for the State and learned counsel for the Accountant General is also present.

We find from the records of the appeal that since after 04.09.2017 where the matter was adjourned for being put up after the disposal of Special Leave Petition, that the appellant lost interest and since thereafter there has been no representation on his behalf and today is the 7th time in continuation when there



is absence of the counsel when the matter is put up.

In the circumstances, we are persuaded to hear Mr. Roy, learned counsel appearing for the State and learned counsel appearing for the Accountant General and we have perused the records to consider whether or not the opinion of the learned Single Judge on the writ petition arising from CWJC No.4094 of 2011 requires any interference.

The records of the writ petition do reflect that the petitioner was aggrieved by the order dated 13.12.2010 passed by the Commissioner-cum-Principal Secretary, Department of Food Supply and Commerce, Government of Bihar, Patna, whereby the pay-scale of the petitioner were fixed at Rs.9100+313 (RPP) as on 31.07.2002 i.e. the date when the petitioner superannuated from service.

The order passed by the Principal Secretary, Department of Food, Supply and Commerce impugned in the writ petition reflects that it is in the light of the order passed by this Court in CWJC No.14772 of 2006 (Ganesh Prasad Karn and Ors. vs the State of Bihar) that the claim of the petitioner and others for fixation of their pay-scale at the time of superannuation was considered and it is taking note of the facts accompanying such claim that it was determined which



determination has aggrieved the petitioner. It is raising such grievance that the writ petition was filed and the learned Single Judge by the order impugned has neither found any infirmity in the calculation or on the disposal of the claim.

The pleadings on records of the writ petition would show that a counter affidavit was filed by the State enclosing the notifications which were the foundation for such fixation and it is taking note of these aspects as well as the settled legal position that fixation of pay-scale or grant of replacement pay-scale is best left to the discretion of the administration and unless found perverse, it may not be interfered with that the writ petition was dismissed. We have examined the records in the backdrop of the submission advanced and concur with the opinion expressed by the learned Single Judge to dismiss the appeal which is dismissed accordingly.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Skpathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2019
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