

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3678 of 2011

DR. Onkareshwar Prasad

... .. Petitioner/s

Versus

The State of Bihar and Ors

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukeshwar Dayal, Advocate Mr. Vikas Mohan, Advocate
For the State	:	Mr. Pankaj Kumar, SC-12 Mr. Kamlesh Kishore, AC to SC-12
For BPSC	:	Md. Nadeem Serajj, Advocate Mr. Altamish, Advocate
For the Accountant General	:	Mr. Ranjan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 17-01-2019

Heard the parties.

A limited grievance has been raised by the petitioner that he has superannuated from service from the post of Director giving the pay scale of Rs. 14,300-18,300/- but, later on, pay scale of Senior Joint Director has been brought at par with the pay scale of Director i.e. Rs. 14,300-18,300/- and, as such, he submits that the pay scale of Director certainly should be higher to the pay scale of Senior Joint Director.

The petitioner was promoted from the post of Senior Joint Director to Director but he was not given a proper pay scale and for that he approached this Court in C.W.J.C. No. 13279 of 2003 and 8803 of 2003 and the same was disposed of vide order dated 13.12.2004 with a direction to grant him the pay scale of Rs.



14,300-18,300/-, which was granted to the petitioner but, in the meantime, the pay scale of the Senior Joint Director was enhanced at the level of the Director and whereafter the petitioner approached this Court in C.W.J.C. No. 12992 of 2009 (Annexure – 7) and this Court vide order dated 12.10.2009 disposed of the writ petition with the following directions:

“The writ petition is disposed with a direction to the respondents to decide the representation of the petitioner for arrears of the enhanced pay scale of Senior Joint Director and enhancement of pay scale on the post of Director within a maximum period of three months from the date of receipt and/or production of a copy of this order.”

But before this order could have been passed, his representation pending before the Government has already been rejected vide order dated 07.10.2009 (Annexure -6) under the signature of Joint Secretary thereby refused the claim for the enhancement of the pay scale.

Learned counsel for the petitioner submits that the order dated 07.10.2009 has been passed before to the order passed in the C.W.J.C. No.12992 of 2009 and, as such, this



matter requires reconsideration in the light of the order passed in the aforesaid writ petition.

As this Court has arrived to a finding that the pay scale of the Director must be above that of the Senior Joint Director as the pay scale of the Senior Joint Director has been brought at par with the Director.

In such view of the matter, the order dated 07.10.2009 will be not treated to be an order passed by the Government in terms of the order dated 12.10.2009 passed in C.W.J.C. No. 12992 of 2009.

Hence, this Court is of the view that the petitioner should file a fresh representation giving details of the facts attaching all the orders passed by this Court with respect to the claim for enhancement of the pay scale of the Director.

If such representation is filed before the concerned Authority within a period of three weeks, the same will be disposed of by a reasoned order within four weeks thereafter.

The concerned Authority will consider the issue as to whether the pay scale of Senior Joint Director and Director will be identical or it should be higher pay scale, as the person holding the post of Director is certainly



above to the post of Senior Joint Director. The higher post carries higher responsibilities and certainly he is entitled for higher pay scale.

If the Authority is arrived to a finding that petitioner is entitled for higher pay scale as Director then certainly difference of salary would be given to the petitioner.

With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.01.2019
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