IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14046 of 2019

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Dinesh Kumar Verma S/o Late Girija Prasad retired Compilation Clerk, Water Resource Department, Govt. of Bihar, Ghora Sahan Canal Division Raxaul West Champaran, Permanent resident of Village and Post- Humayunpur, P.S.- Bajpoatti, District- Sitamarhi.

... ... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Secretary Cum- Commissioner, Water Resources Department, Govt. of Bihar, Sinchai Bhawan, Patna.
3. The Joint Secretary, Water Resources Department, Govt. of Bihar, Sinchai Bhawan, Patna.
4. The Chief Engineer, Water Resources Department, Valmiki Nagar, West Champaran, Bihar.
5. The Superintending Engineer, Water Resources Department, Tirhut Canal Circle, Raxaul, West Champaran.
6. The Executive Engineer, Water Resources Department, Ghora Sahan, Nahar Canal Division Raxaul, West Champaran.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ratneshwar Prasad
For the Respondent/s : Mr. Harish Kumar (GP-8)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 16-07-2019 Pursuant to an observation made by a Bench of this Court on 19.06.2018 passed in C.W.J.C. No. 16440 of 2010, the petitioner represented before the Chief Engineer, Water Resources Department, Motihari, West Champaran ventilating his grievances specially that his pay has wrongly been fixed only at 3050-4590 and not 4500-7000.

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The aforesaid representation has been rejected by order dated 25.09.2018 contained in Memo No. 2707 by the aforesaid Chief Engineer, Water Resources Department, Motihari which order is under challenge in the present writ petition.

The main ground of the petitioner for challenging the aforesaid order is that in similar cases of two of the Compilation Clerks, who were also appointed on compassionate ground, they were given the pay scale of 4500-7000 in view of the Fitment Committee report which ensures parity of pay with other persons of the same genre.

Unfortunately, the petitioner had also come up before this Court with the same prayer vide C.W.J.C. No. 1870 of 2003. A Bench of this Court, after going through the entire service record of the petitioner and other facts, came to the conclusion that the petitioner was wrongly given the pay scale of 4000-6000 which was later withdrawn and the petitioner was given the

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scale of 3050-4590 which was his entitlement. However, this Court directed that whatever has been paid in excess to the entitlement of the petitioner, shall not be recovered from him. Pursuant to the aforesaid order, nothing has been recovered from the petitioner even though he has been paid quite in excess of his entitlement.

The present petition has been structured only on the basis of an order passed by a Bench of this Court in the case of Smt. Mina Madhuri Devi & Ors in C.W.J.C. No. 724 of 2003 on 01.02.2006. In the aforesaid case, the Bench relied upon the Fitment Committee report on 8th of June, 1999 and accorded the pay scale of 4500-125-7000.

Mr. Harish Kumar, learned G.P.-8 has submitted that the petitioner never challenged the order passed in his case in C.W.J.C. No. 1870 of 2003 and merely because with respect to two other persons, the higher scale has been allowed, that would be no

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justification for giving the scale to the petitioner to which he is not entitled.

The learned advocate for the State has also drawn the attention of this Court to the fact that vide resolution dated 08.06.1999 which has been relied upon by a Bench of this Court in Smt. Mina Madhuri Devi & Others, the benefits of time bound promotion was abolished and was replaced with 'need based post'.

The higher scale which was given to the petitioner was found to be wrong as the corresponding scale of Compilation Clerk was found to be 3050-4590.

Considering the aforestated facts, no fault can be found with the order dated 25.09.2018 which has been impugned in the present petition.

There being no merit in the petition, the same is dismissed.

(Ashutosh Kumar, J)

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