

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16942 of 2019

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Parmanand Singh S/o Ramjee Singh R/o Village- Saidi, P.S.- Katri Sarai,
District- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
3. The Deputy Secretary, Agriculture Dept., Govt. of Bihar, Patna.
4. The Secretary, Personal and General Administration Department, Govt. of Bihar, Patna.
5. The Secretary Finance, Govt. of Bihar, Patna.
6. The Director, Horticulture, Govt. of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Binit Kumar, Advocate
For the Respondents : Mr. Dhurjati Kr. Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 21-10-2019

The petitioner is seeking quashing of an order dated 27.08.2018, issued under the signature of the Principal Secretary, Agriculture Department, Government of Bihar, whereby the petitioner's claim for grade pay of Rs.4200/-, at par with Block Agriculture Officer, has been rejected. The said order has been passed in compliance of an order of this Court dated 06.04.2018 passed in C.W.J.C. No. 4327 of 2018, whereby the Principal Secretary was asked to consider the petitioner's claim of parity in pay and pass an speaking order.



2. The petitioner is working as a Block Horticulture Officer and is getting grade pay of Rs.2400/-. He claimed parity of grade pay with Block Agriculture Officer on the ground of equal pay for equal work, since, according to him, the qualifications and the nature of duties for both the posts are identical.

3. I have heard Mr. Uday Bhanu Roy, learned counsel appearing on behalf of the petitioner and Mr. Dhurjati Kumar Prasad, learned Government Pleader No. 14 for the respondent State of Bihar at length.

4. Mr. Roy, learned counsel for the petitioner, has submitted that the educational qualification for appointment on the post of Block Horticulture Officer has been prescribed as Graduation in Science OR Intermediate (Science/Agriculture). Besides, the said qualification of Intermediate, they are also required to have undergone one year training as Horticulture Supervisor/Inspector from an institution recognized by the Indian Council for Agriculture Research. He has further submitted that both the posts fall under the same department of Agriculture, Government of Bihar, and involve identical duties.

5. Mr. Prasad, learned Government Pleader No. 14, on the other hand, has submitted that the petitioner cannot claim parity of pay with the persons holding post of Block Agriculture



Officer as the qualifications prescribed for the two posts are different. He has submitted that whereas a degree in agriculture is essential qualification for appointment as Block Agriculture Officer, a person having intermediate qualification in science or agriculture can also be appointed as Block Horticulture Officer, if he has requisite experience of one year as prescribed under the Rules governing such appointment. He has relied on Supreme Court's decision in case of *Nain Singh Bhakuni and Others vs. Union of India and Another*, reported in (1998) 3 SCC 348, and in case of *S.H.Baig and Others vs. State of Madhya Pradesh and Others*, reported in (2018) 10 SCC 621, to contend that qualification for two posts being materially different, parity in pay cannot be claimed.

6. I have perused the speaking order dated 27.08.2018 passed by the Principal Secretary, Agriculture Department, Government of Bihar, in compliance of an order of this Court dated 06.04.2018 passed in C.W.J.C. No. 4327 of 2018. He has noted in his order, the different qualifications prescribed under the different Rules governing recruitment/appointment to the post of Block Agriculture Officer and Block Horticulture Officer. He has taken note of the fact that whereas degree in Agriculture is the minimum educational qualification for Block Agriculture Officer,



for Block Horticulture Officer, the minimum qualification is Intermediate in Science/Agriculture with successful completion of training, as noted above.

7. In my opinion, the reasons assigned by the Principal Secretary, while rejecting the petitioner's claim, cannot be faulted with.

8. Learned counsel for State of Bihar, in my opinion, is correct in his submission that different pay can be prescribed for two different posts, if minimum education qualification prescribed for the said posts are different. He has rightly relied on the Supreme Court's decision in case of *Nain Singh Bhakuni and Others* (supra), wherein the Court had rejected, the contention that difference in education qualification should not be a discriminating factor while prescribing pay for different posts. The view taken by the Supreme Court in case of *S.H.Baig and Others* (supra) also supports the contention of learned counsel for the State, paragraph 18 of which reads thus : -

“18. Parity of pay-scales cannot be given to the Appellants even on the principle of equal pay for equal work. The Appellants contend that some of the Ministerial employees were assigned work in the Executive Police Force. Some persons in the Ministerial (E) branch have been appointed to the Police Force as Deputy Superintendent of Police also. The Ministerial (E) staff is also assigned duties of Executive Police Force during elections. The Government maintains that the



members of the Ministerial (E) branch do not discharge executive functions. It is well settled law that even if persons are holding same rank/designation and having similar powers, duties and responsibilities they can be placed in different scales of pay and cannot claim the benefit of the principle of equal pay for equal work. [See: Randhir Singh v. Union of India, (1982) 1 SCC 618 and State of Punjab v. Jagjit Singh Ors., (2017) 1 SCC 148]. In this case the qualifications for appointment, mode of recruitment, training, the duties and responsibilities not being similar, the appellants are not entitled for the relief of equal pay.”

9. Considering the above, the impugned order does not require any interference by this Court. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.10.2019.
Transmission Date	N/A

