

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1776 of 2019

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Abu Zafar son of Late Gulam Mustaffa, Mohalla- Karimganj, P.S.- Civil Line,
District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Main Secretariat, Patna.
2. Principal Secretary, Department of General Administration (Formerly known as Personnel and Administrative Reforms department), Government of Bihar, Main Secretariat, Patna.
3. Divisional Commissioner, Gaya, Division, Gaya.
4. District Magistrate, Gaya.
5. District Development Commissioner-cum-Secretary, District Compassionate Committee, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Prasad Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj GP-5 Mr. Dharendra Kumar AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 01-02-2019 Heard the learned counsel for the petitioner and

the State.

The petitioner has sought a direction to the respondent to pay him salary in the pay-scale of Rs. 4000-6000 /-, which is being paid to other members of the cadre of Lower Division Clerk in different Collectorates of the State of Bihar. The other prayer of the petitioner is to pay the



arrears of the difference amount of salary as early as possible.

It appears that the case of the petitioner was recommended by the District Compassionate Committee, Gaya on 29.07.2000 for being appointed on the post of Lower Division Clerk. However, the appointment letter was handed over to him on 04.10.2001.

Learned counsel for the petitioner, from the appointment letter, has shown that he was appointed in the pay-scale of Rs. 3050-4500/-.

It further appears from the records that prior to April 1977, there were two separate and distinct cadres of Lower Division Clerk and Upper Division Clerk. From 07.04.1977, the aforesaid two cadres were merged and members of both the cadres were taken in as a separate cadre of Assistant on the common pay-scale of Rs. 4000-6000/-. After about 23 years, the common cadre was again demerged with two separate cadres of Lower Division Clerk and Upper Division Clerk on 20th of December, 2000. However, it was clarified that after the revival of the two



cadres, any appointee after 20th of December, 2000 would be entitled to a pay-scale of Rs. 4000-6000/- only if the process of selection had been completed by that time. If it had not been completed prior to that date, the aforesaid scale of Rs. 4000-6000/- would not be available which is the scale of an Upper Division Clerk.

In the case of the petitioner, since entire process of being recommended for appointment on compassionate ground was completed by August, 2000, he is to be kept in the pay-scale of Rs. 4000-6000/-.

Learned counsel for the petitioner has also drawn the attention of this Court to the fact that some of the appointees of the later date, specially the retrenched employees of Non-formal Education Segment, have also been placed in the pay-scale of Rs. 4000-6000/-, even though their appointment was on Class-III post of Lower Division Clerk.

Similar matters were considered by the Single Bench and Division Bench of this Court wherein it was clarified that any appointment which has been made or the



process has been completed prior to December, 2000, but for some reason or the other, the appointment letters were issued latter than the cut-off date, such appointees would be kept in the pay-scale of Rs. 4000-6000/- and the condition of the demerger with respect to the pay-scale shall not be applicable to them.

It has been asserted by the petitioner in the present petition that persons serving as Lower Division Clerk and who were appointed prior to 2000 are being paid the scale of Rs. 4000-6000/ and for no apparent reason, the petitioner has been excluded from the aforesaid category of the Lower Division Clerk.

It has therefore been argued that the action of the respondent is absolutely arbitrary and without any basis.

The petitioner, under the aforesaid circumstances, is directed to make a representation before the Principal Secretary, Department of General Administration, Government of Bihar, Patna (Respondent No. 2) within a period of four weeks from today along with a copy of this order, which representation shall be disposed off, after



verifying all the records within a period of eight weeks thereafter, preferably by a reasoned order.

With the aforesaid observation / direction, this writ petition stands disposed off.

(Ashutosh Kumar, J)

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