

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1800 of 2019

Meena Madhuri Devi, Wife of Late Upendra Prasad Singh, Permanent Resident of Village- Mohanpur Purvi Tola, P.O. and P.S. Dharhara, District- Munger and at Present resident of Begampur, Gandak Colony, 03, Motihari, East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Government of Bihar, West Champaran, Motihari.
3. The Chief Engineer, Flood Control and Water Drainage, Water Resources Department, Government of Bihar, Muzaffarpur.
4. The Superintending Engineer, Flood Control and Water Drainage Circle, Water Resources Department, Motihari
5. The Executive Engineer, Sikrahna Embankment (Tatbandh) Division, Water Resources Department, Motihari.
6. The Accountant General Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chhote Lal Mishra, Advocate
For the State	:	Mr. Anjani Kumar, AAG 4
For the Accountant General	:	Mr. S M Ehtesham, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 10-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Chhote Lal Mishra, learned counsel for the petitioner; Mr. Anjani Kumar, learned AAG 4 for the State; and Mr. S M Ehtesham, learned counsel for the Accountant General.



3. The petitioner has moved the Court for the following reliefs:

“(I) For a direction to the Respondents to fix the pension of the petitioner on correct pay scale and pay revisions and make payment of all retirement benefit on the basis of correct and revised pay scale on her superannuation on 17.01.2017 from the post of Compilation Clerk held by the petitioner w.e.f. 23.02.1982, in the Office of Executive Engineer, Sikrahna, Embankment (Tatbandh) Division, Water Resources Department, Motihari.

(II) For also direction to the Respondents to pay the difference of pension, gratuity, leave encashment, Insurance and also G.P.F. consequent upon correction of pay-scale/pay revision and also interest for the delay in payment.

(III) Further for direction to the Respondents to pay the arrear of salary accruing from such correction of pay-scale and consequent pay revision.

(IV) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

4. The matter has been heard on a number of occasions.

However, on 20.08.2020, the Court finally boiled down the issue to the simple point of discrimination where the petitioner had taken the categorical stand that he was similarly situated to one Surendra Mishra, Compilation Clerk. In terms thereof, the respondents no. 1 to 5, have filed supplementary counter affidavit. In the same, the specific stand is disclosed in paragraph no. 12 which reads as under:



“12. That with regard to the statement made in paragraphs 8 and 9 of the rejoinder, it is stated that in response to the query made by the Executive Engineer, Sikrahana Embankment Division, Motihari vide letter no. 520 dated 13.05.2017, the Superintending Engineer, Tirhut Canal Circle, Motihari informed vide letter no. 458 dated 29.05.2017 that the salary of Surendra Mishra, Compilation Clerk, Tirhut Canal Circle, Motihari was not fixed in the revision pay scale of Rs. 730-1080/- from the year 1981. It is submitted that the salary of the said Surendra Mishra had not been fixed in the revised pay scale of Rs. 730-1080/- from the year 1981, he was not entitled to get the replacement scale of Rs. 1400-2300/- with effect from 01.01.1986. As such the office order issued by the Superintending Engineer, Tirhut Canal Circle, Motihari vide letter no. 1916 dated 02.12.2000 (Annexure-4 to the writ application) does not appear to be in terms of the aforesaid Finance Department's resolution no. 6021 dated 18.12.1989 and cannot be followed.”

5. Learned counsel for the petitioner when called upon to respond to the stand from which it is clear that Surendra Mishra had wrongly been given the scale which was not in terms of the Finance Department's Resolution No. 6021 dated 18.12.1989 and, thus, could not be followed by the authorities in the case of the petitioner, he reiterated his stand that since Surendra Mishra has been granted the relief, the petitioner is also entitled to the same.

6. On such stand, when the Court indicated that there cannot be any legal right in terms of Article 14 of the Constitution of India for enforcing a wrong which has been committed in the past and that the petitioner independently on his own has to



demonstrate that he was entitled to the scale he is asking for, learned counsel could not show any material which legally entitles him to the revised pay scale as given to Surendra Mishra.

7. Thus, having considered the matter, after hearing learned counsel for the parties, the Court finds that the prayer of the petitioner to be given the same scale which was given to Surendra Mishra, cannot be sustained in law and, thus, is rejected.

8. At this juncture, when the Court called upon learned AAG 4 with regard to what follow-up action they had taken if it has been found that Surendra Mishra has been given a benefit to which he was not entitled in law, he submitted that the Department would take up follow-up action, as would be legally possible at this stage, against the persons who may be responsible for giving such scale to Surendra Mishra. It was submitted that the matter would be taken up at the departmental level so that responsibility could be fixed and such action prevented, at least in the future.

9. In view of the aforesaid, there being no merit in the writ application, the same stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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