

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12872 of 2014

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Kaushalya Devi, W/o Late Bhagawati Prasad Singh, Resident of village-
Mahdah, P.S.- Buxar, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director Agriculture, Govt. of Bihar, Vikas Bhawan, New Secretariat, Bailey Road, Patna, Bihar.
3. The Agriculture Production Commissioner, Agriculture Department, Govt. of Bihar, Vikas Bhawan, New Secretariat, Bailey Road, Patna, Bihar.
4. The Joint Agriculture Director (General), Agriculture Department, Govt. of Bihar, Patna Division, Mithapur Farm, Mithapur, Patna, Bihar.
5. The Project Executive Officer, Nokha, Rohtas.
6. The Accountant General (A and E), Bihar, Patna.
7. The Treasury Officer, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Singh, Advocate
		Mr. Rakesh Kumar, Advocate
For the Respondent/s	:	Mr. Anant Prasad Singh, SC-15

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-01-2020

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Pursuant to order dated 06.01.2020, the respondent
no. 3 as well as the In-charge Director, Agriculture, Govt. of
Bihar, Patna, are present. Second supplementary counter
affidavit has also been filed on behalf of the authorities.

3. In view of the earlier orders of the Court in the
present case, the only issue which now remains to be gone into
is whether the petitioner is entitled to the benefits of the



unrevised scale of Rs.2200-4000 for which the replacement scale is Rs.6500-10500 or Rs.2000-3800 for which replacement scale is Rs.5000-8000.

4. The contention of the learned counsel for the petitioner is that her husband had been granted the pay scale of Rs.2200-4000 and such order has not yet been rescinded. On a query of the Court, it was clarified that such scale was due and admissible to him with effect from 01.04.1997 i.e., before the employee superannuated on 31.05.1997.

5. The stand of the authorities is that for the last eight years of his service, the employee had not drawn his salary and when he came to the Court claiming such salary in CWJC No.2201 of 2009 for payment of arrears of salary for the period 19.09.1989 to 31.05.1997, the same was dismissed due to inordinate delay and laches. Challenge to the same also failed when LPA No.76 of 2010 filed by the employee was dismissed on 13.01.2010.

6. The authorities have take stand that the petitioner's husband, thus, never got the scale of Rs.2200-4000, which may, inadvertently, have been entered in his service book on account of normal practice, but the same has never become effective in the case of the petitioner. It was submitted that the issue finally attained finality pursuant to the judgment of the Division Bench dated 21.05.2008 in LPA No.166 of 1997, which was filed by



the Bihar Agriculture Graduate Service Association and others, of which the petitioner's husband was also a member, and analogous cases, and pursuant thereto all the members of the Bihar Agriculture Graduate Service Association have been held entitled to pay scale of Rs.2000-3800 for which replacement scale is Rs.5000-8000, which was notified by the government on 04.07.2008.

7. Thus, the stand is that the retiral benefits of the employee have already been fixed in the scale of Rs.5000-8000 to which he is legally entitled and on that basis entire admitted retiral dues have been paid either to the employee himself or to the petitioner, who is his widow.

8. Be that as it may, once pursuant to the Division Bench's order the scale of the employee has been fixed and further, admittedly, he had not received salary for eight years prior to his retirement and the Court having not interfered in the matter, the petitioner cannot claim for payment in the scale of Rs.2200-40000, which was never made effective in the case of the employee as he did not draw any salary much prior to 01.04.1997. Thereafter, in the case of Association to which the employee also belonged, the Division Bench having laid down criteria for such fixation and the authorities complying with the same by which pay scale of Rs.2000-3800, for which the replacement scale is Rs.5000-8000, having been granted and



benefits based thereon also having been paid, the Court finds that the authorities have discharged the onus by paying what was legally due to the employee.

9. It would be relevant to note that in the present writ application though filed in the year 2014, there is no challenge to the order of the authorities granting pay scale of Rs.2000-3800, for which replacement scale is Rs.5000-8000, to the employee by order dated 04.07.2008 and thus, the Court has not gone into that aspect as there was no occasion to go into the merits of such decision of the authorities.

10. In view of thereof, nothing further remains in the application.

11. Accordingly, the same stands disposed off.

(Ahsanuddin Amanullah, J)

J. Alam/-

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