

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23244 of 2019

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Baidhnath Paswan S/o Lorik Ram Resident of Village- Phulhara, P.s.-
Rajapakar, Distt.- Hazipur, Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna
2. The Registrar Co-operative Societies, Govt. of Bihar, Patna
3. The Board of Directors through the Chairman, the Motihari Central Co-operative Bank Ltd., Motihari
4. The Managing Director, the Motihari Central Co-operative Bank Ltd., Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kundan Kumar Sinha, Advocate
For the Respondent/s	:	AC to AAG-11
For the Bank	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 18-11-2021

In the instant petition, petitioner has prayed for following reliefs:

“That this is an application for issuance of a writ in the nature of mandamus or any other appropriate writ or direction commanding the respondent authorities to pay the arrears of salary in a pay scale of Rs. 940-1660/- with applicable D.A. w.e.f. 31.12.2004 in view of the order passed by the Managing Director of Motihari Central Co-operative Bank Ltd. Motihari (Respondent No. 4) since till date, the said pay scale of Rs. 940-1660/- has not paid to the petitioner without any rhyme and reason.”

The petitioner was appointed as Computer Assistant in the pay scale of Rs. 940/- to 1660/- with usual cost of leave allowance. Such appointment was purely on temporary basis and can be terminated without any notice. Thus, the petitioner



was appointed on 31.12.2004. His services were never dispensed in terms of the order.

On the other hand, a resolution dated 27.11.2004 was passed in regularizing the petitioner's services. However, pay scale was not extended on the score that there were financial crunch with the Respondent-Bank, in the result, one more resolution was passed as to giving effect to the order of regularizing for accruing the regular appointment. The financial crunch cannot be taken note of in denying the pay scale of Computer Assistant held by the petitioner in the pay scale of Rs. 940/- to 1660/-. He was not displaced from the post held by him during the intervening period from the date of such appointment i.e. 31.12.2004 till resolutions were passed.

Having regard to the fact that petitioner has discharged the duty of the post of Computer Assistant with pay scale as Rs. 940/- to 1660/-, petitioner is entitled to pay scale attached to the post.

In fact, Apex Court in case of ***State of Punjab & Others V. Jagjit Singh & Others*** reported in ***(2017) 1 SCC 148*** decided on 26.10.2016 in which it is held that even a temporary employee is entitled to pay attached to the post. In other words "equal pay for equal work" has been taken note of.

In the light of Apex Court's decision, the petitioner is entitled to pay scale attached to the post of Computer Assistant @ Rs. 940/- to 1660/- from the date of first resolution dated 27.11.2004.

The respondents have committed error in not extending the pay scale, attached to the post, of the petitioner and such a decision is arbitrary and illegal. Thus, the petitioner has made out a case.



The respondents are hereby directed to extend the pay scale attached to the post of Computer Assistant in the pay scale of Rs. 940/- to 1660/- from 27th November, 2004 onwards and the same shall be calculated and disbursed along with 6% interest and continued to pay the pay scale attached to the post of Computer Assistant (revised pay scale as on this date). The above exercise shall be completed within a period of four months from the date of receipt of copy of this order, failing which, respondents are liable to pay litigation cost @ Rs. 50,000/-.

Accordingly, the instant petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.11.2021
Transmission Date	

