

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23197 of 2019

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Rajesh Kumar, aged about 36 years (male), Son of Sri Siya Ram Prasad, resident of Mohalla- Lala Tola, Patora, Police Station- Muffasil, District- Motihari (East Champaran).

... .. 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 its 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 : Mr.Uday Shankar Sharan Singh, GP 19

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 18-11-2021

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

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

“This is an application for issuance of a writ in the nature of mandamus or any other appropriate writ or direction commanding the respondents authorities to pay the arrears of salary in a regular pay scale with D.A. w.e.f. in view of the decision of Board of the Director’s of the Bank dated 8.7.2015, since the Board of the Bank have decided that the services of the petitioner as Data Entry Operator in the Bank was regularized in its meeting dated 8.7.2015 under Agenda No. 14 (Kha). An order with this regard was issued on 8.8.2015 by the Respondent Managing Director but it seems



that date of regularization as mentioned 8.8.2015 is wrongly typed and indicated as 28.11.2006.”

The petitioner was appointed on daily wage basis on 28.12.2006. He was given temporary status and honorarium of Rs. 6,000/- was assigned on 16.12.2009, thereafter, from time to time the honorarium was extended. The last extension was on 24.06.2014 from Rs. 8,000/- to Rs. 10,000/- per month. Thereafter, on 08.07.2015 Board had decided to regularize the services of the petitioner as Data Entry Operator in view of rendering long service as a temporary employee. In the result on 08.08.2015, the respondent managing director issued order of regularization against one of the post of Office Assistant (Multipurpose) with effect from 08.07.2015 with reference to the Board decision. In this backdrop, the petitioner has not been provided pay scale attached to the post of Office Assistant (Multipurpose) from 08.07.2015 to this day and continue to pay attached to the post. Thus, the petitioner has presented this petition.

Learned counsel for the respondents submitted that selection and appointment to any of the post for the respondent Bank Co-operative Society is required to be through the I.B.P.S., whereas the petitioner's regularization is contrary to the I.B.P.S. procedure thus, the petitioner has not been extended the benefit of pay scale attached to the post of Office Assistant (Multipurpose).

Per contra, learned counsel for the petitioner vehemently pointed out that in terms of Section 44 AV of the Bihar Co-operative



Societies Act, 1935, Co-operative Society is permitted to recruit staff. As long as the aforesaid statutory Section is not amended to the extent that recruitment of staff in the Co-operatives to the extent that it shall be through I.B.P.S. The aforesaid contention of the respondent is not tenable.

Heard learned counsel for the respective parties.

Short question for consideration in the present petition is whether the petitioner's regularization to the post of Office Assistant (Multipurpose) with effect from 08.07.2015 is in order or not. The Section 44 AV of Bihar Co-operative Societies Act, 1935 reads as under:

“Autonomy in all financial and internal administrative matters-

A co-operative society under Short Term Co-operative Credit Structure shall, have autonomy in all financial and internal administrative matters including the following areas:-

(a) Interest rates on deposits and loans in conformity with Reserve Bank guidelines.

(b) Borrowing and investments.

(c) Loan policies and individual loan decisions.

(d) Personal policy, staffing, recruitment, posting and compensation to staff, and

(e) Appointment of auditors and compensation for the audit and internal control system.”

In terms of the aforesaid statutory provision, the contention of the respondents that petitioner's selection and appointment/regularization should be rooted through I.B.P.S. is not

Underline emphasized



tenable for the reasons that as long as aforesaid provision is not amended properly that each and every recruitment in the Co-operative Society and Bank should be rooted through I.B.P.S. In the light of these facts and circumstances the petitioner has made out a case that he is entitle to pay scale attached to the post of Office Assistant (Multipurpose) with effect from 08.07.2015 in terms of the decision of the Board.

In the result, the concerned respondent is hereby directed to calculate arrears of pay of the petitioner from 08.07.2015 to this day and disburse the same within a period of four months from the date of receipt of this order along with interest at the rate of 6 % *per annum*, further continue to pay the pay scale attached to the post of Office Assistant including in the revised pay, if any.

Accordingly, writ petition stands allowed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

