IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1711 of 2018
In
Civil Writ Jurisdiction Case No.17004 of 2018

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Dr. Dwijendra Narain Singh, Son of Late Surendra Narain Singh, Resident of Mohalla - Flat No. B-201, Char Minar Apartment, Rajendra Nagar, Patna, Road no. 12, P.S.- Kadam Kuan, District - Patna

... Petitioner ... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna
3. The Director, Department of Science and Technology, Government of Bihar, Patna
4. The Additional Secretary, Department of Science and Technology, Government of Bihar, Patna
5. The Special Secretary, Department of Science and Technology, Government of Bihar, Patna
6. The Accountant General, Bihar, Birchand Patel Path, Patna
7. The Treasury Officer, Secretariat, Treasury Nirman Bhawan, Patna

... Respondents ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ratan Kumar, Advocate
For the State	:	Mr. Mritunjay Kumar, A.C. to AAG 6
For Accountant General	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 02-02-2021

Heard the parties.

Aggrieved by judgment and order dated 22.11.2018 passed by learned Single Judge of this Hon'ble Court passed in C.W.J.C. No. 17004 of 2018, present L.P.A. has been filed by appellant/petitioner.

Briefly stated the fact of the case is that appellant/petitioner was appointed as Assistant Professor on 16.7.1975 in the Electrical Engineer Department in Government Polytechnic, Gulzarbagh, Department of Science and Technology, Government of Bihar, Patna. He was promoted as Associate Professor vide order dated 25.8.1994 with effect from 16.7.1985 and retired on 31.1.2016.

Respondent AG, Bihar, Patna issued PPO vide letter dated 14.1.2016 in which petitioner's basic pension was fixed as Rs.38,000/- on the basis of last pay drawn, i.e., Rs.76,000/-. However, subsequently, Respondent- Accountant General, Bihar, Patna issued revised PPO to the appellant/petitioner vide letter dated 12.7.2018 as Rs.35,320/- with effect from 1.2.2016 on the ground that earlier pension of Rs.38,000/- was wrongly calculated and also directed for adjustment of excess payment made since 1.2.2016 till date of issuance of revised pension.

Respondent Accountant General in its counter affidavit has stated that as per Finance Department Resolution Nos. 7520 dated 11.8.2011 and 7027 dated 29.7.2011, the officers of the Department are eligible to get advance increment of PhD after fulfillment of certain conditions, prescribed by

UGC. The query made by the office of Accountant General was not replied by the concerned department.

Respondent Department in its counter affidavit has stated that as per para 13 (iv) of resolution No. 7520 dated 11.8.2011 issued by AICTE, three non-compounded advanced increment is admissible on acquiring PhD degree while in service, if such PhD has been awarded by complying with the process prescribed by the UGC.

It has been further stated that Department has never sanctioned advance non-compoundable increment to the appellant/petitioner. Admissibility of advance non-compoundable increment granted to the PhD holder teachers, who are 45 in number, including petitioner is under consideration of the Department.

The writ petition was disposed of with following directions:-

"x x x x x x x x x

> 6. For the reasons aforesaid, the writ petition stands disposed off with liberty to the petitioner to assail such reduction before the appropriate forum, in accordance with law.
>
> 7. Interlocutory Application filed in the writ petition also stands disposed off.
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> 8. However, the Court directs that the State Government should finally come out with it stand and

send the sanction order to the Accountant General as per its stand within one month from today so that the petitioner may be able to take steps, as may be required, before the appropriate forum , in accordance with law."

No interference is required in the order passed by the Writ Court and it is expected that State Government will decide the issue of admissibility of advance increment granted to appellant/petitioner in accordance with law, as directed by Writ Court, after giving opportunity of hearing to the appellant/petitioner.

The LPA is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2021
Transmission Date	NA