

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13483 of 2015

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Rajendra Prasad Mehta son of Late Kuldeep Narain Mehta R/o Murli
Basantpur, P.S. Bangaon, Dist- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary Human Resources Development Department
Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Regional Deputy Director of Education Kosi Division, Saharsa.
5. The District Programme Officer Establishment , Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh
For the State : Mr. SC 18

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 20-12-2022

1. The petitioner assails the orders dated 31.10.2011 and 8.11.2014 whereby, his pay scale has been reduced by the respondent after he has retired on 30th June, 2009.

2. Learned counsel appearing for the State admits that the copy of the writ petition was served in their office in 2015 itself. But he states that the reply could not be filed for reasons beyond this control. However, he does not deny to the Principle of Law that after retirement, a pay scale of an individual person cannot be changed. Considering the short point involved in the matter, this court deems it appropriate to decide this case at this stage itself. As the filing of the counter affidavit would be just an empty formality and also considering that the petitioner has retired way back in 2009.



3. As per the facts which have come on record, the petitioner was granted matric trained pay-scale with effect from 02.01.2005 vide order dated 07.03.2009 and retired on 13th June, 2009 in the matric trained pay-scale. It has also come on record that the petitioner when being sent on training while in service on 05.09.2000 for almost two years and thus, it is not a case where the petitioner was not trained. However, on the basis of general directions, the District Programme Officer has issued a direction on 31.10.2011, reducing the pay-scale of the petitioner and fixing his pension and retiral benefits in the untrained pay-scale. It has also come on record that in similarly situated other cases, the Director, Primary Education has allowed the trained pay-scale to other persons vide order dated 08.11.2014. The petitioner's representation for redressal of grievance remained unheard and, therefore, the present writ petition was filed.

4. Once a pay-scale is granted to a Government servant a vested right is created in his favor. The same cannot be taken away without affording an opportunity of hearing to him. Even otherwise, pay-scale already granted cannot be changed retrospectively after retirement. The order passed in 2011, therefore, is found to be illegal as after retirement the respondents have proceeded to revise the pay-scale retrospectively of the petitioner. The order not only suffers from vice of violation of principle of natural justice, but also, is found on merits to be unjustified as the petitioner already stood trained.

5. In these circumstances, the matter does not required to be remanded for giving opportunity of hearing to the petitioner and passing of fresh order.



6. Principally, the order is found to be illegal and is accordingly quashed.

7. The petitioner's pension and retiral benefits shall be revised as per the matrix trained pay scale granted to the petitioner and which he was drawing on the day when he retired. The retiral benefits and the pension as revised shall be released within a period of one month from today along with arrears. The arrears shall carry simple interest at the rate of 9 % per annum.

8. No cost.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 33

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