

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18430 of 2016

=====

Bideshi Ram S/o Late Sahdev Ram Resident of Mohalla - Patna Water Board
Quarter, P.O. HighCourt, P.S. Kotwali, District Patna

... .. Petitioner/s

Versus

1. The Patna Municipal Corporation and Ors
2. The Municipal Commissioner - Cum - Chief Executive Officer, Patna
Municipal Corporation, Budh Marg,
3. The Chief Account officer, Patna Municipal Corporation, Budh Marg, Patna
1

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Adv
For the Respondent/s	:	Mr. Ranjeet Kumar Pandey, Adv

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

11 29-06-2022 Writ application has been filed claiming salary and arrears difference treating the petitioner to be in the pay scale of Rs. 975-1550 with effect from 01.01.1986 and benefit of 2 ACPs.

It is pointed out by learned counsel for the respondent-Corporation that there is typographical error in paragraph 12 of the counter-affidavit, wherein instead of 1986 to 31.12.1995 due to typographical inadvertent error, the same has been mentioned as 1996 to 31.12.1995.

In view of such statement, the Court would direct that 1996 in paragraph 12 of the counter-affidavit be read as 1986.

The brief facts are that after his appointment in



respondent-Corporation on 20.05.1961, the petitioner served in the respondent-Corporation admittedly as pump mechanic till he attained the age of superannuation on 30.04.2001.

Ten years thereafter, he approached this Court by filing CWJC No. 18696 of 2011. The writ application was for payment due pursuant to recommendation of the 6th Pay Revision Committee. Stand was taken by respondent-Corporation that the admissible dues are to be paid in a phased manner to the employees and in view thereof, writ application came to be disposed of.

From bare perusal of the order passed in CWJC No. 18696 of 2011, it is apparent that other than the dues on account of 6th Pay Revision Committee, no other claim was made by the writ-petitioner.

Since the respondent-Corporation was not making payment of due benefits under order dated 19.08.2015 passed in CWJC No. 18696 of 2011, the petitioner filed a contempt petition (MJC No. 81 of 2016).

During the contempt application, authorities filed a show-cause in which a categorical statement has been made that all admitted dues with regard to arrears of salary, difference of D.A. and difference of pension, have been paid to the petitioner.



Contempt application was, thus, disposed of vide order dated 14.09.2016 passed in MJC 81 of 2016. While disposing of the contempt application, this Court had granted liberty to the petitioner to raise his grievance with regard to any remaining dues before the authorities.

Petitioner, thereafter, has filed the instant writ application claiming the relief, taken note of above. The petitioner has not placed on record any application filed by him or on his behalf pursuant to the liberty granted in the contempt proceedings.

The claim of the petitioner now, in the instant proceedings, is for a higher scale claiming that since he was promoted to the higher post of pump mechanic, he is entitled to higher scale with effect from 01.01.1986. Whether the claim for being granted scale of Rs. 975/- to Rs. 1550/- as being the scale for pump mechanic is correct, and due to the petitioner, is not supported by any decision, document or provision under any Rule, instruction or resolution showing that on 01.01.1986 the scale of Rs. 975/- to Rs. 1550/- was admissible to a pump mechanic.

In contrast, the respondent authorities, in paragraph 12 of the counter-affidavit, have taken specific stand which



reads as follows:

“12. That so far claim of the petitioner for scale 975-25-1150-30-1540 in place of scale 800-15-1010-20-1150 from 01.01.1986 to 31.12.1995 is concerned, it is humbly stated that from the year 1986 to 31.12.1995, the pay scale of Pump Khalasi, Pump Chalak and Mechanic in the Patna Municipal Corporation was same in the scale of 800-15-1010-20-1150 and the same scale was also given to the petitioner. The petitioner has not brought on record even a chit of paper to show that how he is entitled for the scale as demanded by him for the said period.”

The petitioner has only referred to Annexure R-1 order dated 18.02.1971 to contend that since he was posted on the higher post of pump mechanic, he would be entitled to higher pay scale, of Rs. 975-1550. However, by the order dated 18.02.1971 (Annexure R-1), a different and much lesser pay scale (100-4-112-E.B-4-124) has been granted and accepted by the petitioner without any objection whatsoever, from 18.02.1971 till filing of the instant writ petition on 16.11.2016.

Petitioner has retired on 30.04.2001.

In paragraph 13 of the counter-affidavit, the respondents



replying upon recommendations of the pay anomaly committee have categorically stated that all admissible dues have been paid to the petitioner, and now nothing is due. The same has been responded to by the petitioner, but by bald denial that averments are wrong. How the averment is wrong?, what is the deficiency?, and what has not been paid to the petitioner?, has not specified.

From the pleadings, it is obvious that the petitioner is claiming the scale of Rs. 975-1550 merely for the asking and without any basis.

No legally enforceable claim or right is made out in the writ application. In the absence of any right, to receive the scale of Rs. 975-1550, it cannot be said that the respondents are obliged to grant the scale of Rs. 975-1550, which needs to be enforced by issuance of any direction by this Court.

Therefore, no case is made out for the relief prayed for in the writ petition and the same is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

U			
---	--	--	--

