

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.130 of 2022

In

Civil Writ Jurisdiction Case No.23244 of 2019

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1. The Managing Director, Motihari Central Co-operative Bank Ltd Motihari, namely Rajesh Kumar aged about 45 years (male) son of Sri Ram Lakhan Prasad Singh, Resident of A/23, Astha Nagar, Mirganj, P.O. and Police Station- Begusarai, District - Begusarai.
 2. The Board of Director through its Chairman, Motihari, Central Co-operative Bank Ltd. Motihari.

... .. Appellant/s

Versus

1. Baidhnath Paswan Son of Lorik Ram, Resident of Village - Phulwara, Police Station- Rajapakar, District - Hajipur (Vaishali).
2. The State of Bihar through the Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
3. The Registrar Co-operative Society, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar Mishra
Mr. Prashant Kumar
For the Respondent/s : Mr. Aditya Narayan Singh
Mr. Kundan Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 27-09-2022



The Motihari Central Cooperative Bank Limited has challenged the order dated 18.11.2021 passed in C.W.J.C. No. 23244 of 2019, whereby a direction has been issued to the Bank to extend the pay-scale attached to the post of Computer Assistant in the pay-scale of Rs. 940-1660/- from 27th of November, 2004 onwards, which shall be calculated and disbursed along with 6% interest and such payment shall be continued to be made as an employee is entitled to have the pay-scale attached to the post of Computer Assistant.

The respondent/writ petitioner had sought a mandamus to the Respondent Authorities to pay him the arrears of salary in the pay-scale of Rs. 940-1660/- with applicable D.A. w.e.f. 31.12.2014, in view of the order passed by the appellant in the present appeal as till the date of filing of the writ petition, such scale was not afforded to the petitioner without any reason.

The learned Single Judge took note of the fact that the writ petitioner/respondent was appointed as Computer



Assistant in the pay-scale of Rs. 940-1660/- on a temporary basis. However, the services of the writ petitioner was continued. A resolution of the Department dated 27.11.2004 was passed, regularizing the services of the petitioner. Notwithstanding the aforesaid regularization, the pay-scale was not extended to the petitioner only for the reason of financial constraints of the Respondent/Bank.

The learned Single Judge has observed that such financial constraints cannot come in the way of the entitlement of the petitioner for being paid the scale attached to the post and on which post he has rendered is service.

The learned Single Judge has also taken note of the fact that even a temporary employee is entitled to the pay attached to the post (Referred to: **State of Punjab & Ors V. Jagjit Singh & Ors** reported in (2017) 1 SCC 148).

There could be no justification, in our opinion, in not extending the pay-scale attached to the post on which the petitioner has rendered his service.



We, thus, do not find any fault with the order passed by the learned Single Judge including the interest of 6% which has been awarded by the order impugned.

As a result, this appeal fails, but without any order as to costs.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

SKM/uttam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.09.2022
Transmission Date	N/A

