

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5759 of 2020

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Sushil Prasad Singh S/o Late Shiv Prasad Singh Resident of Village-
Phulwariya Chaudhary Tola, P.S.- Phulwariya Barauni, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Joint Secretary Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Additional Secretary Public Health Engineering Department, Govt. of Bihar, Patna.
5. The Principal Secretary Finance Department, Govt. of Bihar, Patna.
6. The Additional Secretary Finance Department, Govt. of Bihar, Patna.
7. The Engineer-in- Chief -cum- Special Secretary Public Health Engineering Department, Bihar, Patna.
8. The Chief Engineer (Mechanical) Public Health Engineering Department, Bihar, Patna.
9. The Deputy Secretary (Monitoring) Public Health Engineering Department, Govt. of Bihar, Patna.
10. The Accountant General (A and E) State of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siyaram Pandey
For the Respondent/s	:	Mr. S. Raza Ahmad (AAG-5)
		Mr. Vishwambhar Pd. (AC to AAG-5)
For Accountant General, Bihar (Resp. No.10)	:	Ram Kinker Choubey, SC (IA and AD)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT



Date : 03-03-2022

Heard learned counsel for the parties.

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

“This is an application for issuance of writ of the following nature-

(i) In the nature of certiorari for quashing setting aside the office order no. 34 dated 31.01.2019 as contained in Memo no. 55 dated 31.01.2019 (Annexure-5) issued by the Joint Secretary, Public Health Engineering Department, Govt. of Bihar, Patna (Respondent No.3) by which the pay scale of the petitioner has been lowered down by amending his grade pay of promotions.

(ii) Be pleased to issue a writ in the nature of mandamus or an appropriate writ/writs order/orders direction/directions commanding the



*respondents to grant promotions i.e.,
1st ACP, 2nd ACP and 3rd MACP to the
petitioner on the grade pay scale
Rs.2800, Rs.4200, Rs.4600 from due
dates with all consequential benefits
for which he is legally entitled for.*

*(iii) And/or be pleased to pass such
other order or orders which may be
deemed fit and proper in the facts and
circumstances of the case.”*

Petitioner was initially appointed to the post of Group-D on 23.02.1979. He has earned promotion to the post of Treasury Clerk on 09.02.1988. Thereafter, he was not promoted to any of the post. In the result, he was extended 1st ACP, 2nd ACP and 3rd MACP on 01.06.2000, 23.02.2003 and 23.02.2009 respectively. The official respondents are of the view that petitioner was promoted to the post of Junior Selection Grade (Daftari) on 23.02.1984. In the result, the petitioner is not entitled to grade pay of Rs.2800/-. Accordingly, it was reduced to Rs.2400/- and pay of the petitioner was refixed on 31.01.2019 (Annexure-5). Thus, the petitioner feeling aggrieved by the re-fixation of pay and reduction of his grade pay from Rs.2800/-



to Rs.2400/-, petitioner has presented this petition.

Undisputably, the impugned orders relating to reducing petitioner's grade pay from Rs.2800/- to Rs.2400/- is without notice to the petitioner. It has civil consequences, therefore, he is entitled to notice. That apart, perusal of Annexure-5 in respect of re-fixation of pay of the petitioner, it does not reveal the date of promotion to the post of Junior Selection Grade (Daftari) on 23.02.1984. Moreover, the petitioner has disputed to the extent that he was not or never promoted to the post of Junior Selection Grade (Daftari) on 23.02.1984.

In the light of these facts and circumstances, petitioner has made out a prima facie case on the short ground that the impugned communication is without notice. Accordingly, Annexure-5 stands set aside, reserving liberty to the concerned respondent no3 to issue a detailed show-cause notice and also enclosing order of promotion to the post of Junior Selection Grade (Daftari) dated 23.02.1984, since the petitioner has disputed. If such a notice is furnished, the petitioner is hereby directed to furnish his reply/explanation. Thereafter, the respondent no.3 is hereby directed to pass a speaking order. The above exercise shall be completed within a



period of four months from the date of receipt of this order.

Accordingly, writ petition is allowed.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.03.2022
Transmission Date	NA

