

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.539 of 2019

In
Civil Writ Jurisdiction Case No.18798 of 2008

-
1. The State of Bihar
 2. The Commissioner-cum-Secretary Water Resources Department, Bihar, Patna
 3. The Under Secretary Water Resources Department, Bihar, Patna
 4. The Secretary Finance Department, Bihar, Patna
 5. The Chief Engineer Water Resources Department, Balmikinagar, West Champaran
 6. The Executive Engineer Tirhut Canal Division No. 1, Motihari
 7. The Collector West Champaran, Bettiah

... .. Appellants

Versus

Ravi Shanker Kumar S/o Late Shashi Bhusan Yadava Vill.- Yamunapur Belwadih, P.s.- Kalyanpour, Distt.- East Champaran at present working as Store-keeper, Tirhut Canal Division No.-1, Motihari

... .. Respondent

Appearance :

For the Appellant/s : Mr. Deepak Sahay Jamuar (Ac To Aag 4)
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 19-07-2022

In the instant appeal, the appellants have assailed the validity of the learned Single Judge's order dated 9.1.2018 passed in C.W.J.C. No. 18798 of 2008. There is delay of about one year, two months and 21 days.

2. Heard I.A. No. 01/2019 for condonation of delay.

For the reasons stated in the application and the affidavit, the



delay of one year, two months and 21 days in filing LPA stands condoned. In the result, I.A. is allowed.

3. The main matter is heard. The respondent Ravi Shankar Kumar was appointed on compassionate ground against one of the post of Storekeeper on 15.12.2000 in the pay-scale of Rs. 4000-6000. He has joined service on 22.12.2000. Later he was confirmed on 3.4.2021. In the meanwhile, the State Government has taken a policy decision to reduce the pay-scale from Rs. 4000-6000 to 3050-4500 and it is a general policy decision.

4. In the light of these facts and circumstances, the question for consideration is whether respondent Ravi Shankar Kumar is entitled to pay-scale of Rs.4000-6000 or 3050-4500 or not? Further whether respondent Ravi Shankar Kumar has been provided an opportunity of hearing before altering his pay-scale from Rs. 4000-6000 to 3050-4500 or not?

5. Learned counsel for the appellants submitted that having regard to the dates and events that the respondent Ravi Shankar Kumar was appointed on 15.12.2000 and he had joined the service on 22.12.2000 to the post of Storekeeper. Before his joining service, the State Government had evolved a general policy in respect of reducing the pay-scale from Rs. 4000-6000



to 3050-4500 of the Storekeeper on 20.12. 2020. In the result, the respondent who has joined service two days after introduction of general policy decision relating to reducing the pay of the Storekeeper, the respondent is not entitled to have benefit of pay-scale of Rs. 4000-6000/-

6. The learned counsel for the appellants further submitted that in order to give effect to the general policy decision dated 20th December, 2000 in respect of reducing the pay-scale, the concerned authority has taken a decision while issuing a memo reducing the pay of the respondent Ravi Shankar Kumar from 4000-6000 to 3050-4500. Therefore, there is no error in respect of departmental action in issuing the memo dated 22.10.2001 in altering the respondent Ravi Shankar Kumar's pay-scale in the Storekeeper with reference to the general policy decision 20th December,2000.

7. The learned Single Judge has not appreciated dates and events that respondent is entitled to pay-scale of Rs. 3050-4500 in the light of the fact that respondent had joined service on 22.12.2021 i.e. after two days from the date of general policy decision.

8. Learned counsel for the appellants submitted that general policy decision has been taken note of by confirming the



respondent's service on 03.4.2021 with reference to reduced pay-scale of Rs. 3050-4500.

9. Heard learned counsel for the appellants. undisputed facts are that the respondent Ravi Shankar Kumar was appointed on compassionate ground against one of the Storekeeper post on 15.12.2021 in the pay-scale of 4000-6000. The State had evolved general policy decision in respect of altering pay-scale of Storekeeper from 4000-6000 to 3050-4500. i.e. before respondent joining service on 22.12.2021. Perusal of the confirmation order dated 3.4.2021 and 22.10.2021 it is evident that the respondent was not provided opportunity of being heard like issuance of show cause notice as to why his pay shall not be re-fixed @ Rs. 3050-4500 instead of Rs. 4000-6000 in the light of general policy decision of the State Government dated 20.12.2000. Further general policy decision of the State Government in respect of re-fixation of pay of a certain post including the Storekeeper dated 20.12.2000 has prospective effect. In other words such of those persons who were appointed subsequent to 20.12.2000 the altered pay-scale is applicable. In other words persons who were appointed prior to 20.12.2000 the pay-scale is Rs. 4000-6000. Undisputedly, the respondent was appointed on 15.12.2000. Merely, respondent



had joined the service on 22.12. 2000 does not take away the right accrued in favour of him to draw pay-scale 4000-6000 to alter him to his disadvantage at Rs. 3050-4500.

10. The Apex Court time and again held that if there is any civil right is affected against a particular person, in that event, right to show cause notice is mandatory. In the present case by virtue of memo dated 22.10.2021 the respondent Ravi Shankar Kumar's right has been affected to the extent that his pay-scale has been reduced. In other words, he would be drawing lesser than what pay he was entitled with reference to his initial appointment to the post of Storekeeper on 15.12.2000. The Apex Court in the case of ***Board of Control for Cricket in India Vs. Cricket Association of Bihar reported in (2015) 3 SCC 251*** held that principle of natural would spring into action even in the case of administrative or quasi-judicial decisions. The aforesaid principle is applicable in respect of memo dated 22.10.2021. Further the general policy decision of the State Government in respect of reducing the pay-scale of few of the category of post including the Storekeeper is concerned, it cannot give even retrospective effect as it was ordered in the present case. Right has been accrued in favour of the respondent in respect of entitlement of the pay-scale of Rs. 4000-6000. Any



service condition which is altered subsequent to 15.12.2000 i.e. 20th December, 2000 would not take away the right accrued in favour of the respondent Ravi Shankar Kumar. In the light of the these facts and circumstances, the appellants have not made out a case. Accordingly, the appeal stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2022
Transmission Date	NA

