

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.316 of 2021

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Baijnath Rai, Son of Late Mahadeo Rai Resident of Muhalla Dahiyawan Tola
in town of Chapra, P.s.- Chapra Town, Dist.- Saran

... .. Petitioner/s

Versus

1. North Bihar Power Distribution Company Ltd., Tirhut Electric Supply Area,
Muzaffarpur through its General Manager
2. The General Manager, North Bihar Power Distribution Company Ltd.,
Tirhut Electric Supply Area, Muzaffarpur
3. The Deputy General Manager-cum-electrical Superintending Engineer,
Tirhut Electric Supply Area, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vaidehi Raman Prasad Singh, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, Advocate

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

Date : 28-04-2022

Heard learned counsel for respective parties.

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

“(a) For grant of an appropriate writ for a direction to the respondents to give two annual increments to the petitioner for the period 01.01.1998 to 04.01.2000 (the period during which the petitioner was kept out of employment on account of his forced retirement by wrongly treating his date of birth as 15.12.1937) and to fix the last paid salary to the petitioner after giving him two annual increments for the said period.

(b) For grant of an appropriate writ for a direction to the respondents to pay to the petitioner arrear of salary on



account of grant of two annual increments for the aforementioned period.

(c) For a direction to the respondents to fix the retiral dues of the petitioner after fixing the last paid salary of the petitioner after grant of two annual increments and to pay to the petitioner the arrear of balance of the retiral dues.

(d) For grant of an appropriate writ for quashing the letter no.1072 dated 29.06.2009 directing the petitioner to deposit Rs. 1,45,353 (the alleged excess payment made to the petitioner) (Annexure-4) and for a direction to the respondents to refund the said amount of Rs. 1, 45, 353, which was wrongly deducted from the pension payable to the petitioner and to pay interest on the said amount from the date of deduction.

(e) For a direction to the respondents to revise the pension/family pension of the petitioner after revising the letter no. Pens. No. 1016/1997 Lt. No. 704 dated 04.06.2020 (Annexure-5) in terms of grant of the aforementioned reliefs and to pay the arrear of the pensionary benefit to the petitioner.”

The petitioner is not entitled to relief/payer no. 1(d) in respect of challenge to the order dated 29.06.2009 by which the petitioner was directed to deposit a sum of Rs. 1,45,353/- on the score that it is highly belated and laches on the part of the petitioner in questioning the order dated 29.06.2009 in the year 2021. Thus, what remains in the present petition is relating to consideration of petitioner's grievance of granting two annual



increments for the period from 01.01.1998 to 04.01.2000. Even though there is an enormous delay and laches on the part of the petitioner in seeking two annual increments for the period from 01.01.1998 to 04.01.2000. At the same time, it is continuing cause of action if petitioner is granted increment today. At the best he is entitled to certain enhanced monetary benefit either pay or pension or both. Hon'ble Apex Court in the case of **M. R. Gupta vs. Union of India & Ors.** reported in (1995) 5 SCC 628. It is held that delay in respect of pay fixation is concerned there cannot be a delay for the reasons that the third party right is not affected. That apart, it is continuing cause of action that if the re-fixation of pay is undertaken in a particular pay such person is entitled to monetary benefits from the prospective date.

In the light of the judicial pronouncement cited (supra) question of delay in considering the petitioner's grievance relating to grant of two annual increments for the period from 01.01.1998 to 04.01.2000 would not be a hurdle. Therefore, the concerned respondent is hereby directed to examine the petitioner's service particulars read with the relevant provision of law in respect of granting annual increments at the relevant period. If the petitioner is eligible for grant of increments as claimed by him the necessary order of granting increments be ordered within a period of four



months from the date of receipt of this order. Petitioner is not entitled to arrears of pay prior to filing of this petition for a period of three years, in other words, petitioner is entitled to difference of pay from 01.01.1998. If the petitioner is otherwise not eligible for two annual increments as claimed by him in that regard necessary speaking order shall be passed within the time limits stipulated above.

With the aforesaid observations, the present petition stands disposed off.

At this stage, learned counsel for the respondent submitted that official respondents have already considered the petitioner’s claim for two annual increments cited (supra). However, to that effect copy of the order has not been placed on record, therefore, the contention of the respondent stands rejected.

(P. B. Bajanthri, J)

Vikash/-

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

