

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14031 of 2018

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Yogendra Prasad Dinkar Son of Late Devan Singh, resident of Mohalla-Bagdulhan, Ram Balak Chowk, Hajipur, P.S. Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Main Secretariat, Patna.
2. Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. Principal Secretary, Department of Finance Government of Bihar, Main Secretariat, Patna.
4. Secretary, Expenditure Department of Finance, Government of Bihar, Main Secretariat, Patna.
5. Superintending Engineer, Public Health Engineering Circle, Public Health Engineering Department, Government of Bihar, Muzaffarpur.
6. Executive Engineer, Public Health Division, Hajipur, Vaishali.
7. Divisionl Accounts Officer, Public Health Division, Hajipur, Vaishali.
8. Accountant General, Bihar, Beer Chand Patel Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kishore Kumar Thakur, Advocate Mr. Braj Kishore Singh, Advocate
For the Respondent/s	:	Mr. S.Raza Ahmed, AAG-5 Mr. Vishwambhar Prasad, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 06-11-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed seeking
following reliefs:-

(i) For a direction to the respondents to fix his
salary in the psy scale of Rs. 6500-10500 and its corresponding



revised grade pay on grant of Ist Assured Career Progression to him, with effect from 28.03.2000 in terms with the resolution No. 163 dated 08.01.2016 issued under the signature of respondent Secretary (Expenditure) of Finance Department.

(ii) For a further direction to the respondents to fix his salary in the pay scale of Rs. 10,500-15,200 with effect from 28.03.2000 on grant of 2nd Assured Career Progression (ACP for short) to him, and thereby make fixation of pay of the petitioner in the grade pay of 6600/- with effect from the said due date.

(iii) For a direction to the respondents to fix his salary in the revised pay scale of Rs. 15600-39100 on grant of 3 MACP and thereby provide him the salary in the grade pay of 7600/- with effect from 01.01.2009.

(iv) For a direction to the respondents to make payment of arrears of salary in such pay scales and its corresponding revised pay scales/grade pay with proportionate interest on the same, in the light of the judgment and order dated 28.11.2017 passed in C.W.J.C. No. 18433/2016 and other analogous cases, considering the fact that even though the petitioner holds the qualification of being a graduate and thereby is fully covered by the resolution contained in Memo



No. 163 dated 08.01.2016, is being kept deprived of the benefit extended through the said resolution.

3. The learned counsel for the petitioner submits that the entitlement of the petitioner for the grant of pay scale has not been granted only on one ground that the petitioner's appointment had taken place on the basis of intermediate and petitioner has demanded promotion on the ground that he has completed graduation as per the rule but department's stand in the said case is that this certificate of graduation shall be of no use for the petitioner as the said degree he has taken during the service but permission for the same was not taken. In this regard, learned counsel for the petitioner submits that the different letters issued by the officials recommending grant of pay scale itself indicates that such documents relating to permission to appear in the examination was definitely available in the department.

4. In paragraph-10 of the counter affidavit the specific stand has been taken by the State that the permission of entry regarding passing of Graduation examination in the service book is still wanting. During service period the petitioner has not intimated regarding passing of the Graduation examination, but it has been provided later on in the year 2017.



Counsel submits that the case of petitioner also covered in the light of the decision made by the Hon’ble Supreme Court passed in S.L.P. No.8219-8226 of 2019 decided on 25.04.2023.

5. In this view of the matter, the petitioner is directed to file representation in the light of Section 4C of the Bihar State Litigation Policy, 2011, before respondent No.2, who shall pass reasoned and speaking order within 60 days from the date of production of a copy of this order considering that if case of petitioner is covered under Section 4C of the Bihar State Litigation Policy, 2011, then the relief be granted in his favour.

6. With this direction, this writ petition stands disposed of.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	09.11.2023
Transmission Date	

