

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12190 of 2022

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Md. Shahabuddin, Son of Late Md. Rafique, Resident of Mohalla-House No. 65, Millat Colony, Bari Road, Police Station-Civil Line, District-Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Director Primary Education Department, Bihar, Patna.
3. The District Education Officer, Gaya.
4. The District Programme Officer (Establishment), Gaya.
5. The Head Master Chinihit, Middle School, Gaya.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ujjawal Kumar Singh, Advocate
For the A.G.	:	Mr. Binod Kumar Labh, Advocate
For the Respondent/s	:	Smt. Binita Singh, SC- 28

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 05-09-2023

Heard Mr. Ujjawal Kumar Singh, learned counsel appearing on behalf of petitioner, Mr. Binod Kumar Labh, learned counsel appearing on behalf of Accountant General, Bihar and Mrs. Binita Singh, learned SC-28 for the State.

2. In the present writ petition, the petitioner has prayed for following reliefs:

“(i) To issue an appropriate order/orders direction/directions including a writ preferably in the nature of mandamus commanding and directing upon the respondents to revise the pension of the petitioner on the basis of last pay drawn i.e. 72,100 instead of 62,200.

(ii) To direct the respondents to



make the payment of differences of amount of pension.

(iii) To direct the respondents to make the payment of penal interest on account of delay and laches on the part of respondents.

(iv) To any other relief/reliefs to which the petitioner may be found entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submits that petitioner retired from the post of Headmaster on 30.06.2021. The last pay drawn by him was Rs. 72,100/- instead of Rs. 62,200/-. The District Programme Officer (Establishment), Gaya has sanctioned the pension papers considering the pay scale of petitioner to be 62,200/-. The petitioner is aggrieved by the said incorrect calculation of the pension and has filed the writ petition for making payment of revised pension on behalf of last pay drawn by him i.e. Rs. 72,100/-.

4. The petition has further informed this Court that even at the reduced rate, the Treasury Officer, Gaya had not credited the amount into the pension account of the petitioner. On 04.09.2023, this Court has directed the Treasury Officer, Gaya to forthwith credit the entire amount of pension and other retiral dues into the account of the petitioner. Today, it has been informed that pension has been credited into the account of the



petitioner, however, some more time is required for clearance of other dues of the petitioner, as certain paraphernalia are required to be carried out by the Treasury Officer. The counter affidavit reveals that reduction of pension has been made unilaterally by the District Programme Officer (Establishment), Gaya assigning the reason that petitioner has not passed the examination of “Hindi Noting Drafting”.

5. Learned counsel for the petitioner further submitted that petitioner is entitled for financial upgradation and the action of the respondent in reducing the pension of the petitioner is not sustainable in the eye of law. In this regard, learned counsel has relied the law laid down by the Apex Court in case of *Sahib Ram Vs. State of Haryana & Others* reported in *1999 Supp (1) SCC 18* and latest judgment passed in the case of *Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.* reported in *(2023) SCC OnLine SC 496*.

6. Pre contra, learned counsel appearing on behalf of State submits that petitioner is not entitled for enhanced pensionary benefits on the basis of incorrect pay scale, which was drawn by him as the petitioner has not passed the examination of “Hindi Noting Drafting”, which is mandatory in terms of the Government Circular contained in Notification No.



361, dated 15.06.68.

7. Having considered the rival submissions of the parties, the District Programme Officer (Establishment), Gaya is directed to take steps to consider the case of the petitioner in accordance with law laid down by the Apex Court in the case of *Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors. (Supra)* and forthwith sanction the pension of the petitioner at the revised rate and communicate the same to the Accountant General, Bihar, Patna for re-fixation of pension of the petitioner. The petitioner, if so desire, may also file a detailed representation before the District Programme Officer (Establishment), Gaya, who will take necessary steps and action within a period of four weeks from the date of communication of this order to make payment of pensionary benefits in accordance with law.

8. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2023
Transmission Date	

