

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6732 of 2019

Madan Kumar Choudhary Son of Harikant Chaudhary, resident of Tara Hospital Road Lane No. B, Chanakaya Vihar, Gobarsahi, P.S. Muzaffarpur Sadar, District- Muzaffarpur, the retired, S.R.P.S. College, Jaintpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Govrenment of Bihar, Patna.
3. The Director Higher Education, Education Department, Government of Bihar, Patna.
4. The Vice Chancellor Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
5. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
6. The Finance Officer, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
7. The Principal, S.R.P.S. College, Jaintpur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Singh
For the Respondent/s	:	Mr.Smt. Binita Singh, SC-28
		Mr. Vikas Ratan Bharti, Adv.
		Mr. Sanjeev Kumar, Adv.
		Mr. Indrajeet Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 18-03-2024

Heard learned counsels for the parties.

2. The present application has been filed on behalf of the petitioner for following relief(s):

1) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to grant the pay-scale of Rs. 5500-9000 to the petitioner with effect from 01.04.1997 as admissible to the Store Keeper in place



of pay-scale of Rs. 4000-6000 as granted by the State Government through its Education Department vide memo no. 1139 dated 18.06.2014 pursuant to the order of the Apex Court as also to grant the benefits of A.C.P. in the subsequent pay-scale.

II) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to pay the consequential monetary benefits to the petitioner like difference of arrears of salary and pensionary benefits with interest on account of revised pay-scale.

III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as a Store Keeper in the Department of Botany in Shree Raghava Prasad Singh College, Jaintpur, Muzaffarpur by the respondent University and he joined the aforesaid College on 06.06.1977. The State Government had granted approval of salary and allowances to the petitioner since the date of his appointment vide memo no. 162 dated 31.01.1981 issued under the signature of the Joint



Secretary, Education Department.

4. It is further submitted that the Government of Bihar, Education Department vide G.O. dated 25.02.1987 declared the non-teaching staff of universities and constituent colleges equivalent to the Government Staff. For the same purpose, a meeting was held between the representatives of the Federation and the Government of Bihar on 17.07.2007 and in the said meeting, it was decided that the facility of Assured Career Progression (ACP) may be given to the employees of the University. It was also decided that the pay-scale of Rs. 5500-9000 may be granted to the Assistants of Colleges and University and store keeper may be treated as an Assistant and pay scale may be given accordingly.

5. It is further submitted that later on the State Government had come out with Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003. According to the aforesaid scheme, the Government servants were held entitled for grant of at least two financial progression one after the end of 12 years of service and the other after the end of 24 years of service. Thereafter, in order to fall in line with the financial progression scheme of the Central Government for the State Government employees, the State



Government had also revised its policy of financial up-gradation with effect from 01.01.2009. The Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003 was replaced and it was substituted by the Bihar State Employees Service Condition (Modified Assured Career Progression Scheme) Rules, 2010.

6. It is further submitted that on the Public Interest Litigation petition filed by Sunny Prakash and Ors., the Division Bench of this Court vide order dated 07.08.2008 directed the Chief Secretary, Government of Bihar, Patna to ensure that the commitment given by the State Government to the Bihar State University and College Employees Federation Association, which have been reduced to writing on 18.07.2007 is honoured and implemented within one month from the date of the judgment. It is further submitted that against the order dated 07.08.2008 passed by the Division Bench of this Court, the State of Bihar went before the Hon'ble Supreme Court by filing Civil Appeal No. 516 of 2013 arising out of S.L.P.(C) No. 22617 of 2008, which was dismissed by the Hon'ble Supreme Court with a direction to the State of Bihar to implement the impugned order of this Court dated 07.08.2008 within a period of three months from the date of receipt of copy of this judgment and



when the respondent did not comply the said order, a contempt petition (C) No. 262 of 2013 was filed by the Bihar State University and College Employees Federation before the Hon'ble Supreme Court. During the pendency of the contempt application, the Education Department issued a letter contained memo no. 1139 dated 18.06.2014 whereby and whereunder it has been held that the Store Keeper appointed against the sanctioned post are entitled to get his salary in the pay-scale of Rs. 5500-9000 with effect from 01.04.1997 and also approval has been granted for payment of monetary benefits in the pay scale of Rs. 5500-9000 with effect from 01.04.1997 to the Store Keeper.

7. It is further submitted that the aforesaid contempt petition (C) No. 262 of 2013 was disposed of by the Hon'ble Supreme Court wherein it was directed to the Registrars of all the concerned Universities, to whom funds have been released by the State Government, for disbursement of arrears of pay on account of revision of pay-scales, to ensure disbursement to the employees, who are entitled to the same within six weeks from the date of order/judgment.

8. It is further submitted that a meeting was held on 28th July, 2017 in the Vice Chancellor's Secretariat between



University Officers and the representatives of college Mahasnagh of the Bihar University, Muzaffarpur. After discussion and deliberation, a decision was taken that a committee be constituted to examine the cases of promotion of the retired persons under A.C.P. and M.A.C.P. Scheme. It is further resolved that 75% of the total claim of arrear be considered for payment at present and remaining 25% will be taken into account after clearance of pay fixation by P.V.C. Patna.

9. It is further submitted that the respondent no.3 released the fund of Rs. 55,79,00,000/- to the respondent University for payment of arrears of pay on account of revision of pay-scales vide letter no. 1447 dated 07.08.2017, but contrary to the aforesaid, the respondent University did not revise the salary of the petitioner in the pay-scale of Rs. 5500-9000 with effect from 01.01.1996 which is the admissible pay scale of Store Keeper rather the respondent University fixed the pay-scale of the petitioner as Rs. 4000-6000 with effect from 01.01.1996, Rs. 4500-7000 with effect from 09.08.1999 on account of grant of 1st A.C.P., Rs. 5000-8000 with effect from 15.09.2000 on account of 2nd A.C.P. The pay-scale of Rs. 9300-34800 Grade Pay-4200 was granted to the petitioner with effect from



01.01.2009 and Grade Pay-4600 with effect from 01.01.2009 on account of grant of M.A.C.P. The said fixation was communicated under office order contained in memo no. B/1272 dated 11.08.2015 issued under the signature of the respondent no.5.

10. It is further submitted that the petitioner superannuated from the post of Store Keeper on 31.01.2016 after attaining the age of superannuation. After retirement of the petitioner, the respondent University fixed the pension of the petitioner at Rs. 9,625/- per month vide memo no. B.U./Pen-5069 dated 29.04.2016 without revising the salary of the petitioner in the pay-scale of Rs. 5500-9000 with effect from 01.04.1007 admissible to the Store Keeper. It is further submitted that the respondent University neither paid the differences of arrears of salary on the basis of the revised pay-scale nor fixed the pensionary benefits on the basis of the revised pay-scale though the petitioner had filed series of representations.

11. Learned counsel for the State has filed a counter affidavit in the present case stating therein that in compliance of the order passed by the Hon'ble Supreme Court, the State Government vide its letter no. 1139 dated 18.06.2014 and letter



no. 1340 dated 23.08.2016 granted pay scale of Rs. 5500-9000 w.e.f. 01.01.1996 and actual benefit w.e.f. 01.04.1997 to the Store Keepers of University and Constituent Colleges. It is further submitted that the State Government has also released funds for payment of arrears in compliance of order passed in contempt petition no. 262 of 2013.

12. Learned counsel for the petitioner has filed a rejoinder to the counter affidavit stating therein that from the order dated 09.10.2020 passed in C.W.J.C. No. 1086 of 2019, it is evident that the prescribed pay-scale of Store Keeper is Rs. 5500-9000 with effect from 01.01.1996 which was accepted by the respondent University as well as the Educational Department, but the fixation was not made by the respondent university in the said pay-scale rather the fixation was made by the respondent-authority in the pay-scale of Rs. 4000-6000 with effect from 01.01.1996.

13. It is further submitted that one Niranjana Prasad Singh, Store Keeper had filed a writ application before this Court being CWJC No. 1086 of 2019 for grant of pay-scale of Rs. 5500-9000 with effect from 01.01.1996 and pursuant to the direction of this Court, during the pendency of the aforesaid writ application, the respondent-University had granted the pay-scale



of Rs. 5500-9000 to one Niranjan Prasad Singh and accordingly fixed his salary as well as pensionary benefits.

14. In view of the aforesaid discussions, I deem it proper to direct the respondent to grant the pay-scale of Rs. 5500-9000 to the petitioner with effect from 01.04.1997 as admissible to the Store Keeper and also to pay the consequential monetary benefits as well as to fix pensionary benefits on the basis of the revised pay scale.

15. Considering the abovementioned facts, the present writ application stands allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2024
Transmission Date	NA

