

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15181 of 2015

Prashant Kumar S/o Late Sachchidanand Singh, resident of Village + Post-
Rajason, P.S.- Bidupur, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Deptt. of Home, Govt. of Bihar, Patna.
3. The Principal Secretary, Deptt. of Finance, Govt. of Bihar, Patna.
4. The Director-General of Police, Bihar, Patna.
5. The Additional Secretary, Deptt. of Finance, Govt. of Bihar, Patna.
6. The Senior Superintendent of Police (SSP), Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Sunil Kumar Verma, Advocate
For the State	:	Mr. Sarvesh Kr. Singh, AAG-13

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

Date : 19-11-2024

Heard learned counsel for the parties.

2. The petitioner, who was appointed as Class III Clerk in the police department on compassionate ground vide office order contained in Memo No. 1402 dated 27.08.2010 issued by the Deputy Inspector General of Police, Purnea Range, Purnea and drawing grade pay of Rs.1900/-, is before this Court by filing this writ petition praying for grade pay of Rs.2800/- at par with Assistant Sub-Inspector of Police in the department of Bihar police.

3. Though various contention appears to have been made by the petitioner in the writ petition as contained in



paragraph Nos.1 to 12, learned counsel for the petitioner has submitted that adjudication of this writ petition may be made on a restricted consideration of paragraph Nos.9, 10 and 11 only of the writ petition. Learned counsel for the petitioner has made a prayer for adjudication of the present writ petition on the basis of the averments made in paragraph Nos.9, 10 and 11 only of the writ petition for the reason that the aforesaid paragraph Nos.9, 10 and 11 of the writ petition have not been answered by the State respondents in the counter affidavit filed by the respondent No.2.

4. In view of the above submissions made by the learned counsel for the petitioner, the Court proposes to adjudicate the present writ petition, as prayed for by the learned counsel for the petitioner restricting its consideration to paragraph Nos.9, 10 and 11 only of the writ petition. Accordingly, paragraph Nos.9, 10 and 11 of the writ petition are extracted hereinbelow for ready reference.

“9. That it is further relevant to submit that the Civil post of Clerk, forming post of the Ministerial Cadre / Staff under the Police Department in the State of Bihar was enjoying a realm of parity in the matter of scale of pay so far as the Cadre of Assistant Sub-Inspector of Police and the Clerk is concerned ever since



1946. It is further stated that till the year, 2000 the parity in scale of pay between the Cadre of A.S.I. and the Clerk / Ministerial Cadre continued to survive as the personnel in both the cadres were drawing monthly salary amounting to 4000-6000.

10. That it is further respectfully submitted that the Addl. Secretary, Deptt. of Finance, Govt. of Bihar, Patna issued a resolution contained in memo no.5027 dated 17.05.13 whereunder it was conveyed that in the light of demands made by the Bihar Police Men's Association a decision was taken to revise the scale of pay of such personnel who had obtained educational qualification of 10+2. To illustrate, the Grade-Pay of such constable was fixed at the rate of 2000, 2400 for the cadre of Hawaldars and finally the Grade-Pay of 2800 for the cadre of Assistant Sub-Inspector of Police.

11. That it is further pertinent to submit that the Ministerial Staff / Cadre of Clerks under the police Department in the State of Bihar following the revised pay structure has been granted and sanctioned the Grade pay of 1900 with effect from 01.01.06 exhibiting marked and perceptible prejudice arbitrariness and discrimination in the approach and attitude of the State Government against the Civil Cadre post of clerk possessing higher qualification and greater abilities as compared to the Cadre



of Constable or other similarly situated personnel under the uniform cadre. The said discrimination in the scale of pay between the cadre of A.S.I. and the Clerks has generated a sense of loss and de-motivation resulting in a relative sense of demoralization.”

5. On perusal of the averments made in paragraph Nos.9, 10 and 11 of the writ petition, it appears that the post of Clerk and the post of Assistant Sub-Inspector of Police in the department of Bihar police were paid the same salary since 1946. It was in pursuance of a resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna that the grade pay of Assistant Sub-Inspector of Police was fixed at Rs.2800/-. The grade pay of the Clerks in the police department was fixed at Rs.1900/- with effect from 01.01.2006. The disparity in the pay of the Clerks and the Assistant Sub-Inspector of Police in the police department, which hitherto were paid the same scale of pay, arose because of the resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna, whereby the grade pay of Assistant Sub-Inspector of Police was fixed at Rs.2800/-,



whereas the grade pay of Clerks in the police department remained Rs.1900/- on and from 01.01.2006.

6. On the disparity of grade pay that had arisen between the post of Clerks and Assistant Sub-Inspector of Police in the police department as highlighted hereinabove, the learned counsel for the petitioner has submitted that by the resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna, the respondent authorities have broken the tradition of parity in grade pay of the Clerks and the Assistant Sub-Inspector of Police in the police department by enhancing the grade pay of Assistant Sub-Inspector of Police to Rs.2800/-, which is much higher than the grade pay of Rs.1900/- paid to the Clerks in the department of police, which is impermissible in law.

7. It is a settled position of law that the employer / the State in the instant case is competent to fix the scale of pay / grade pay having regard to the nature of duties the particular post is required to discharge. The employer / the State in the instant case is also competent to revise the scale of pay / grade pay having regard to the nature of duties and function attached to the particular post(s). The only limitation, the employer /



the State is put on while fixing the scale of pay / grade pay of the post, is that the employer or the State should not discriminate in fixing pay scale / grade pay to the post(s) which discharges equal nature of works. The petitioner has not projected in paragraph Nos.9, 10 and 11 of the writ petition that the post of Clerk and the post of Assistant Sub-Inspector in the police department are discharging equal work. The only contention, as can be noticed from paragraph Nos.9, 10 and 11 of the writ petition, is that the post of Clerk and the Assistant Sub-Inspector of Police, who were drawing same monthly salary since 1946, have been discriminated in the pay scale vide resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna. The petitioner has neither challenged the resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna, by which resolution the disparity in the grade pay between the post of Clerk and the Assistant Sub-Inspector of Police in the police department was brought about nor the learned counsel for the petitioner has been able to bring it to the notice of this Court any provision of law that prohibits discontinuation of the tradition of parity



in the scale of pay given to the post of Clerk and the Assistant Sub-Inspector of Police in the police department since 1946 vide resolution contained in Memo No.5027 dated 17.05.2013 issued by the Additional Secretary, Department of Finance, Government of Bihar, Patna.

8. Under the aforesaid circumstances, I find no reason to interfere with the action of the respondent authorities, whereby the Assistant Sub-Inspector of Police in the police department have been given higher grade pay than the post of Clerk in the police department nor do I find any legally tenable reason, pleaded in the writ petition, to direct the respondent authorities to pay to the Clerks in the department of Bihar Police a higher grade pay at par with the Assistant Sub-Inspector of Police in the department of Bihar Police.

9. The writ petition is dismissed being devoid of merit.

Narendra/-

(Nani Tagia, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.11.2024
Transmission Date	N.A.

