

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.623 of 2019

In
Civil Writ Jurisdiction Case No.21798 of 2014

Janardan Prasad Dixit Son of Late Balbhadra Prasad Dixit R/o Mohalla-
Miscot Lane No. 4, P.O.-Ramna, P.S.-Mithanpura, District-Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary
2. The Principal Secretary Department of Human Resources Development,
Govt. of Bihar, Patna
3. The Director (Administration)-cum-Joint Secretary Department of Human
Resources Development, Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shekhar Singh, Advocate Mr.Avinash Kumar Singh, Advocate
For the Respondent/s	:	Mr.S.S.Tiwary, AC to AAG-15

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

5 16-05-2024 Heard learned counsel for the appellant and learned
counsel for the respondents.

2. Respondents have not complied order dated
18.04.2024 passed in the present L.P.A. No. 623 of 2019 in
apprising extension of additional increment on account of
acquisition of Ph.D. degree qualification was withdrawn in the
year 1985 so as to decline such benefit to the appellant.

3. On 18.04.2024, the following order was passed:-

"Matter called twice. Learned counsel
for the State was asked to assist this Court.



In the morning session, he has submitted that he would rely on Supreme Court decision as well as withdrawal of the additional increment to such of those employees/officers acquired Ph.D qualification are not entitled to additional increment and it was withdrawn. Both the documents have not been made available.

2. The matter is pending consideration for the last about five years. Therefore, Respondents are hereby directed to pay cost of Rs. 10,000/- (Rs. Ten Thousand). Cost shall be remitted in the Patna High Court Legal Services Committee, Patna within a period of four weeks. In the meanwhile, State Respondents are hereby directed to produce all such of those documents to the extent that appellant is not entitled to additional increment on account of acquisition of Ph.D degree qualification with reference to policy decision of the State Government that providing additional increment to such of those employees/officers, who have acquired Ph.D qualification was withdrawn in the year 1985 read with the fact that appellant was stated to have acquired Ph.D qualification prior to 1985. In other words, whether withdrawal of such additional increment benefit has been with retrospective effect or not, so as to contend that appellant is not entitled to have the



benefit of additional increments on account of Ph.D degree qualification.

3. Relist this matter on 16.05.2024."

4. For non-production of relevant policy decision to the extent that State has withdrawn the benefit of extending the additional increment to such employees/officers who have acquired Ph.D. qualification was withdrawn in the year 1985. In the absence of such documents and the fact that appellant has acquired Ph.D. qualification before 1985 in such circumstances, he is entitled to have the benefit of additional increment on acquisition of Ph.D. qualification in terms of the policy existing as on date of appellant's claim. This issue has not been apprised by the learned Single Judge while passing order on 06.11.2018 in CWJC No. 21798/2014.

5. Accordingly, the order of the learned Single Judge stands set aside.

6. Consequently, the respondents are hereby directed to extend two advance increments to the appellant in the light of Article 805 of Bihar Education Board on account of acquisition of Ph.D. degree qualification on 25.04.1981.

7. Thereafter, proceed to refix the pay of the appellant. Appellant is not entitled to arrears of amount on account of extending two advance increments from the date of



acquisition of Ph.D. qualification during the intervening period from 25th April, 1981 till 17.12.2011. From 08.12.2011 till date, he is entitled to. The reasons for non-entitlement of difference of arrears of pay is on account of delay in approaching this Court. The appellant has approached this Court in the month December, 2014. The delay would not be a hurdle for extending the reliefs sought in the present appeal for the reason that the third party right would be not affected in the event of granting two additional increments on account of acquisition of Ph.D. degree qualification.

8. In identical matter, in case of **M.R. Gupta vs. Union of India & Ors.** reported in **1995 SCC(5) 628**, the Hon'ble Supreme Court has taken note of in respect of granting the increment and if there is a delay in such circumstances, third party right would not be affected. However, if there is enormous delay, in such circumstances arrears could be restricted to three years prior to filing of a litigation, the same principle is applicable to the case in hand.

9. Therefore, difference of pay /arrears of pay is restricted that appellant is entitled to only from 08.12.2011 till date of retirement. The concerned authorities are hereby directed to re-fix his pay as well as re-fixation of pension if he is entitled.



Arrears or difference of amount shall be calculated and disbursed.

10. The above exercise be undertaken within a period of four months from the date of receipt of this order, failing which the appellant is also entitled to a litigation cost and it is quantified at Rs. 25,000/-

11. L.P.A. stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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