

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8557 of 2012

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RAM BALAK PODDAR, Son Of Banarsi Poddar, Resident Of Village-Kharari, Via-Rayaghat, P.S.-Hayagha District-Darbhanga Petitioner/s
Versus

1. THE STATE OF BIHAR through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
2. The Regional Development Commissioner-Cum-Chairman, Sone Command Area Development Agency, Sone Bhaw
3. The Secretary, Sone Command Area Developmet Agency, Sone Bhawan, Patna
4. The Executive Engineer, Soil and Water Management, Sone Command Area Development Agency, Auranabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Kanchan Kumari, Advocate
For the State : Mr. Jitendra Kumar, AC to Ex Aag 11

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 03-05-2024

Heard Ms. Kanchan Kumari learned counsel appearing
on behalf of the petitioner; Mr. Jitendra Kumar, learned counsel
for the State.

2. Petitioner has *inter alia* prayed for following reliefs
in the paragraphs No.1 of the writ petition:-

“ That, by this writ application, the petitioner craves indulgence of this Hon’ble Court for issuance of appropriate writ/writs, order/direction for the following reliefs:-

(I) grant of revised pay scale of Surveyor to the petitioner.

(ii) grant of pay scale of surveyor w.e. from 24.07.2000 whereas the petitioner has been granted pay scale of Surveyor w.e.f. 3.8.11.

(c) Arrears of salary after revision of pay scale.

(d) Benefits of post of Surveyor from July 1981.

(e) grant of A.C.P. to the petitioner.

(f) Other consequential benefits of the post of surveyor.”

3. The admitted facts relating to the petitioner are that



petitioner was appointed on the post of *Amin* in the pay scale of Rs.190-254/-. The petitioner qualified for the post of surveyor in July, 1980 and he was observed on the post of surveyor *vide* order dated 27.07.2000 but in his own pay scale of *Amin* along with other *Amins*, namely, Sri Raghupati Ram, Sri Rajendra Mistry and Sri Ram Bachan Ram on the basis of their seniority and educational qualification. It is admitted in paragraph no.10 of the counter affidavit that petitioner was given pay scale of surveyor in scale of Rs.1320-2040/- after recommendation of the decision taken by the Establishment Committee on 25.06.2011 and services were regularized with effect from 03.08.2011 and the same was communicated vide letter no.234. The surveyor pay scale was revised with effect from 01.04.2011 in scale of Rs.4000-6000/-. It is admitted in paragraph no.11 of the counter affidavit that the Water Resources Department, Government of Bihar has made a request to the Government to make payment of dues from 01.01.2009 to 31.03.2011. It is admitted that the petitioner is a retired employee of erstwhile Sone Command Area Development Agency, Patna, which was established by the State Government in its Agriculture Department as independent agency under the Bihar Agriculture and Rural Area Development Agency Act, 1978 (hereinafter



refereed to as “the Act”) and the said agency had independent status of a body corporate under Section 3(1)(c) of the Act. It is further admitted that the agency was brought under administrative control of the Water Resources Department, Bihar with effect from 14.11.2003, however, the said Act was repealed by the Bihar Agricultural and Rural Area Development Agency (Repeal) Act, 2017 and the agency has been dissolved and service of its permanent employees, assets and liabilities have been merged into the Water and Land Management Institute, Patna (in short ‘WALMI’) with effect from 01.09.2018. It is informed that Section 24 of the Act provides for fund of the agency and all the payment is required to be made by the agency from the said fund. The agency being local authority body also receives fund from time to time from central/ State Government. It is also admitted that the agency cannot generate his own sources of income and its expenditure was fully dependent on the grant-in-aid given by the Central/State Government.

4. In compliance of the order passed by this Court dated 15.04.2024, a supplementary counter affidavit has been filed on behalf of respondents no.2 to 4, reiterating the fact that the petitioner was initially appointed as a *Amin* in pay scale of



Rs.190-254/- vide memo No.1280 dated 22.08.1975 and in view to observe the surplus employees, the petitioner and three other *Amins* were absorbed against the post of surveyor but in their own pay scale. The service of the petitioner was regularized against the post of surveyor in the pay scale of Rs.1320-2040/- vide memo no.234 dated 03.08.2011. It has been again reiterated that since the service of the petitioner was regularized on the post of surveyor with effect from 03.08.2011, he cannot be given benefit of 5th pay revision prior to the said date. No denial is made in the supplementary counter affidavit or counter affidavit filed on behalf of respondents no. 2 to 4, as to whether, any similarly situated surveyor has been granted the benefit from the effective date or the State Government employees, particularly, the surveyor of the State Government were given the benefit of 5th pay revision, nor there is any information in respect of other monetary benefit, which the petitioner is entitled to. Petitioner has now retired and it has been admitted by respondents no.2 to 4 in paragraph no.8 of the supplemental counter affidavit that the petitioner has been paid retiral benefits under the head of un-utilized earned leave for a sum of Rs.2,96,020/- on 05.12.2013 and gratuity amount of Rs. 6,48,967/- on 06.09.2014.



5. From the above figures relating to payment on account of unutilized earned leave and gratuity, in absence of the calculation giving the applicable pay scale to the petitioner, I find the same to be clarified by the respondents.

6. The petitioner has not denied the fact that the petitioner has retired from WALMI and in absence of date of retirement, as well as, the specific grievance made by the petitioner in respect of effective dates, which entitles him for enhanced pay scale, this Court is not in a position to give direction to the respondents, even considering the status of the petitioner as a surveyor has not been denied by the respondents.

7. Considering the aforesaid facts and information, which this Court has collected from the pleadings made in the writ petition, counter affidavit and supplementary counter affidavit, the petitioner, if so advised, may file a detailed representation before respondents no.2 to 4.

8. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.05.2024
Transmission Date	NA

