IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16104 of 2019

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1. The Bihar Pensioner Samaj Jila Shakha District- Bhagalpur, through its Chairman Sri Umesh Chandra Choudhary, Son of Late Govind Prasad Chaudhary, Resident of Naya Bazar, Kasba Bola Ghat, Bhagalpur, P.S.- Tatarpur, District- Bhagalpur.
2. Umesh Chandra Choudhary, Son of Late Govind Prasad Chaudhary, Resident of Naya Bazar, Kasba Bola Ghat, Bhagalpur, P.S.- Tatarpur, District- Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
3. The Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
4. The District Treasury Officer, Bhagalpur, District- Bhagalpur.
5. The District Accounts Officer, Bhagalpur, District- Bhagalpur.
6. The Accountant General (A and E), Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Pravina Kumari, Advocate
For the Respondent/s	:	Mr. Sushil Kumar Singh, AC to AAG-2

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 06-08-2024

Heard Mrs. Pravina Kumari, learned Advocate for the petitioners and Mr. Sushil Kumar singh, learned Advocate for the State.

2. The petitioner, a registered association of retired Government servants, has filed the present writ petition through its President seeking quashing of the part of the Gazette notification dated 23.09.2009 (Annexure-2) issued by the

Government of Bihar to the extent whereby it has been stated that the pension in revised pay scale will be fixed by placing the pay of the pensioner at the initial Pay band plus Grade pay and also the Gazette notification dated 08.08.2012 (Annexure-3) by which the aforesaid decision has reiterated with an addition that full pension will be payable only to those persons who have completed 33 years of service, failing which the pension will be proportionately reduced from 50% of the pension amount, but it should not be less than the amount on which the retired employees are drawing. The petitioner is also aggrieved by Annexure-7 whereby the representation of the petitioner came to be rejected.

3. Shorn of unnecessary details, earlier the petitioner's association had moved before this Court in C.W.J.C. No. 21288 of 2013 for redressal of the grievance of their members that they are not getting the benefit of 6th Pay Revision Commission, including the grade pay and pay band.

4. Taking note of the fact that during the pendency of the writ petition, the benefit of 7th Pay Revision Commission was extended to the teachers, who retired prior to 01.01.2006, but the benefit of 6th Pay Revision Commission has not been extended till date, the petitioners were granted liberty to file

representation before the Secretary, Finance Department, Government of Bihar with regard to non-payment of benefit of 6th PRC, including the grade pay and pay band.

5. In compliance of the aforenoted decision of this Court, the petitioner’s association through its Chairman filed a representation, the copy of which is marked as Annexure-6. The prayer of the petitioner’s association, however, came to be turned down in the light of the Office Order contained in Memo No. 38/37/08 P&PW (A) dated 28.01.2013 as well as the decision taken by the Finance Department, as contained in Resolution No. 582 dated 17.07.2018. The aforenoted order is under challenge.

6. A counter affidavit has been filed on behalf of respondent nos. 2 and 3.

7. Learned Advocate for the State contended that the State Government vide its Resolution No. 582 dated 17.07.2018 after considering the grievance of similarly situated person has resolved that the order contained in Memo No. 38/37/08 P&PW (A) dated 28.01.2013 issued by the Central Government will not be applicable to pre-2006 State pensioners/family pensioners. It is also urged that the issue regarding applicability of notification dated 28.01.2013 had also

arisen before this Court in C.W.J.C. No. 19352 of 2015, wherein the Court held that unless there is corresponding notification issued by the State Government that the notification dated 18.04.2013 issued by the Central Government shall be applied to the employees of the State Government, it cannot apply automatically and implemented in favour of the State Government employee.

8. It is also contended that the identical issue has come up for consideration in the case of **Yogendra Prasad Vs. The Magadh University & Ors. (C.W.J.C. No.4649 of 2019 along with other analogous cases)** reported in **2020(1) PLJR 243** herein this Court in para. 38 and 39 held as follows:

> *"**38.** It is to be noted here that the teachers retiring after 1.1.2006 and further before 23.09.2009 and after 23.09.2009 form one homogeneous class as they are the teachers who continued in job after coming into force the 6th PRC and as such, the teachers who retired after coming into force the 6th PRC cannot be treated differently on artificial classification retirement before 23.09.2009 and after 23.09.2009. Thus, the Court has no difficulty in upholding the contention of the petitioners that the teachers retiring after 1.1.2006 and before 23.09.2009 and after 23.09.2009 form one homogeneous class and there should be no distinction in the matter of*

grant of pensionary benefit and pro-rata reduction on non-completion of 33 years does not satisfy the twin test of reasonable classification as such benefit of full pension on completion of 20 years must accrue to the teachers recipient of 6th PRC.

39. *On the question whether the respondents can treat the teachers differently, Mr. Lalit Kishore, learned Advocate General submitted that those who retired before coming into force the benefit of 6th PRC would be entitled to pension in terms of unrevised pay scale as they were in the basic pay scale of lecturer of Rs. 8000-13500/-, Senior Lecturer 10,000-15,200/-, Lecturer Selection Grade 12,000-18,300/-, Reader 12000-18,300/-, University Professor 16,400-22400/- but in order to extend favour the State Government decided to grant them the benefit of initial pay scale in the pay band plus AGP for the purpose of grant of pensionary benefits and thus the State has taken care that the financial interest of the teachers who retired in unrevised pay scale are protected. He submits that there is no arbitrariness in the decision of the State Government in fixing the pension on the basis of basic pay + grade pay. The claim of the petitioners for grant of a corresponding fitment in the revised pay band is unsustainable. The benefit of fitment in revised pay band + grade pay is only* *available to those who were in service on 1.1.2006, the date on which the revised pay scale was introduced."*

9. Adverting to the aforesaid facts, learned Advocate for the State submits that the writ petition has no merit.

10. Considering the rival contention of the parties and taking note of the facts that identical issue has already been set at rest by the Division Bench of this Court in the aforenoted case, reported in **2020(1) PLJR 243**, this Court does not find any merit in the writ petition.

11. Accordingly, the present writ petition stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2024
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