

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.917 of 2019

In
Civil Writ Jurisdiction Case No.12893 of 2013

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Shalini Priyadarshini, D/o Late Vivekanand Verma, W/o Vijay Kumar Karn,
presently posted as Assistant in Establishment Section Araria Collectorate,
Town and Distt.- Araria.

... .. Appellant

Versus

1. The State of Bihar.
2. The Principal Secretary General Administration Department, Govt. of Bihar,
Secretariat, Distt.- Patna
3. The Special Secretary Finance Department, Govt. of Bihar, Secretariat,
Patna, Distt.- Patna
4. The District Magistrate Gopalganj, Distt.- Gopalganj
5. The District Magistrate Araria, Distt.- Araria

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Kishore Kumar Thakur
For the Respondent/s	:	Mr. Parijat Saurav, AC to AAG-13
		Mr. Naman Nayak, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-01-2024

The present L.P.A. is filed against the portion of the order dated 25.06.2019 passed in C.W.J.C. No. 12893 of 2013 to the extent from what date appellant is entitled arrears of salary after restoration of pay-scale of Rs. 4,000 to 6,000/- from the date of his appointment. It is necessary to take note of the relevant portion of the order of the learned Single Judge dated



25.06.2019 and it reads as under:

“In view of the aforesaid discussion and findings, the order dated 05.07.2012 contained in Memo No. 801 dated 9.7.2012, whereby, the District Magistrate, Gopalganj is quashed. Accordingly, this Court directs that the pay-scale of the petitioner of Rs. 4000-6000/- should be restored and should be given the replacement pay-scale of Rs. 4000-6000/- but, this Court is not giving any direction for payment of the arrear of salary as well as the scale of pay will be applicable prospectively.

In the result, this writ application stands allowed to the extent indicated above.”

2. Learned counsel for the appellant submitted that appellant was appointed against the post of Assistant on 30.12.2000. In the meanwhile, in the very same month, the post of Assistant was bifurcated into Upper Division Clerk (UDC) and Lower Division Clerk (LDC). Despite that the concerned Authority has not modified the order of appointment of the appellant to the extent whether he has been appointed to the post of U.D.C. or L.D.C. On the other hand, appellant was continued in the post of Assistant. The post of Assistant carries pay-scale of Rs. 4000-6000/-. However, the same was not extended to the appellant. In the result, he has approached this Court for the first time on 02.04.2010 in filing C.W.J.C. No. 6610 of 2010.

3. In identical matter, this Court in L.P.A. No. 167



of 2016, it has been ordered that pay-scale of Rs. 4000-6000/- would be restored insofar as payment of arrears is concerned, it has to be paid from the date of filing of writ petition. The aforementioned observation has been extracted on page-7 of Judgment dated 25.06.2019 passed in C.W.J.C. No. 12893 of 2013. However, the learned Single Judge has not expressed in other words in the conclusion to the extent that appellant is also entitled to arrears from the date of filing first writ petition namely C.W.J.C. No. 6610 of 2010, which was filed on 02.04.2010. The same has not been disputed by the respective counsels for the parties. Therefore, order of the learned Single Judge dated 25.06.2019 passed in C.W.J.C. No. 12893 of 2013 is modified to the following extent:-

The concerned Authority by restoring the pay-scale of appellant at Rs. 4000-6000/-, he or she is directed to calculate arrears in the pay-scale of Rs. 4000-6000/- with effect from 02.04.2010 till fixation of pay-scale pursuant to the order dated 25.06.2019 passed in C.W.J.C. No. 12893 of 2013 and pay the difference of amount within a period of three months from the date of receipt of this order, failing which the appellant is entitled to interest at the rate of 6% per annum on all arrears amount.



4. With the above observation order of the learned
Single Judge is modified.

5. L.P.A. is allowed in part.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2024
Transmission Date	NA

