

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14836 of 2024

Md. Quaiser Khan, Son of Late Wasi Ahmad Khan, Resident of Village-Govindpur, Khajuri, Ward No. 7, Kishunpur, P.S- Kalyanpur, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Mithila Region, Laherisarai, Darbhanga.
4. The Superintendent of Police, Samastipur.
5. The District Account Officer, Collectorate, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raja Ram Mishra, Advocate
For the Respondent/s : Mr. Shankar Kumar Thakur, AC to GP 27

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 01-10-2024 The petitioner has filed the instant writ petition alleging, *inter alia*, that during pay fixation, he was not granted increment with effect from 01.07.2006, subsequently, however, the increment was paid on 01.07.2007, 01.07.2008, 01.07.2009 and so on. For non-payment of increment, the petitioner approached this Court by filing CWJC No. 8960 of 2023 dated 02nd December 2023. In the said writ petition, the petitioner claimed that two increment were due to him for the year 2007 and 2008 which were not calculated by the respondents. A Co-ordinate Bench of this Court vide order dated 02nd December 2023 passed the following order:-



“Having given thoughtful consideration to the rival contentions of the parties, this Court is of the considerable view that if at all the petitioner is entitled for the two increments in question, the same shall be paid by the respondents and further the representations of the petitioner dated 01.11.2021, 03.01.2022 and 09.03.2022 shall be disposed of by the respondents on merits by passing appropriate orders.”

2. In the instant writ petition, the petitioner's grievance is for non payment of only one increment allegedly accrued with effect from 01.07.2006.

3. In my considered view, the instant writ petition is hopelessly barred by *constructive res judicata* on the ground that the petitioner could have approached the writ Court in CWJC No. 8960 of 2023, claiming increment due with effect from 01.07.2006.

4. It is submitted by the learned Advocate appearing on behalf of the petitioner that the said prayer was not made in CWJC No. 8960 of 2023 out of inadvertence. This cannot be a logic for the subsequent writ petition. When the relief could have been prayed for and obtained in the earlier writ petition and that relief was not prayed and thereafter, the writ petition is disposed of finally, the said relief cannot be agitated by filing



subsequent writ petitions.

5. For the reasons stated above, I have no other alternative but to dismiss the instant writ petition.

6. Accordingly, the instant writ petition is dismissed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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