

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1270 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.2978 of 2016**

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Sheo Nandan Prasad Sinha Son of Late Bishwambhar Prasad Sinha, resident of C/33, A.G. Colony, P.O. Ashiyana Nagar, P.S. Shastri Nagar, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Deputy Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The Nagar Ayukt, Municipal Corporation, Muzaffarpur.
5. The Accountant General, Patna, Bihar.

... .. Respondent/s

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**Appearance :**

|                        |   |                                                                                              |
|------------------------|---|----------------------------------------------------------------------------------------------|
| For the Appellant/s    | : | Mr. Chandra Kant, Advocate<br>Mr. Ravi Bhushan Bharat, Advocate<br>Mr. Navim Kumar, Advocate |
| For the State          | : | Mr. Rakesh Ambastha, AC to AAG 7                                                             |
| For PRDA, Muzaffarpur  | : | Mr. Anurag Saurav, Advocate<br>Mr. Abhinav Alok, Advocate                                    |
| For Accountant General | : | Mrs. Nivedita Nirvikar, Sr. Advocate<br>Mr. Lalan Kumar, Advocate                            |

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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 : 03-01-2024**

The appellant in CWJC No. 2978 of 2016 has sought for direction to the extent of difference of pay *i.e.* salary to the appellant in the pay-scale of Rs. 14,300-400-18,300/- from 01.04.1997 to 31.12.2000 for the period of his deputation in



Muzaffarpur Regional Development Authority (hereinafter referred to as 'MRDA') along with 12 % interest. His grievance has been rejected by the learned Single Judge. Hence, the present LPA.

2. On 18.12.2023, matter was heard at length and the following order was passed:

*“Core issue involved in the present lis is whether the appellant is entitled to service benefits like pay scale which are required to be paid from his parent department, namely, Office of the Accountant General or is he entitled to whatever the pay in the borrowing department / Muzaffarpur Municipal Corporation.*

*2. The Learned Single Judge has taken note of exercising option. It is undisputed that appellant had exercised option for extending pay scale of the Muzaffarpur Municipal Corporation. Once he has exercised option, he cannot go back against his own option.*

*3. Learned counsel for the appellant submitted that the learned Single Judge has not appreciated the case in respect of P.K. Singh, employee of Patna Municipal Corporation. In this regard learned counsel for the appellant has not apprised this Court whether P.K. Singh was an employee of the office of this Accountant General and was he deputed to Patna Municipal Corporation or not so as to compare the claim of the petitioner.*

*4. Be that as it may even if the office of the Accountant General had extended any monetary*



*benefits while fixing pay of the P.K. Singh in that event illegality cannot be perpetuated in the present case.*

*5. Learned counsel for the petitioner further submitted that there is error committed by the learned Single Judge in paragraph 8. Reading of paragraph 8 of the order of the learned Single Judge dated 26.08.2019, we do not find any error committed by him.*

*6. At this stage it is submitted that office of the Accountant General has filed their counter affidavit in which they have admitted in paragraph 6 and 9 that the appellant is entitled to pay scale in his parent department. If it so, appellant is permitted to withdraw this LPA and pursue the same in the parent department or in the alternative to pass order on merit in the present lis. Learned counsel for the petitioner seeks time to get instruction.*

*7. Relist this matter tomorrow (19.12.2023).”*

**3.** Today, learned counsel for the appellant, on instruction, submitted that matter be decided on merit.

**4.** It is undisputed that appellant was on deputation in MRDA during the intervening period from 01.04.1997 to 31.12.2000. Government, as a policy matter, extended pay revision like sixth pay revision. The appellant had exercised option of pay-scale in the MRDA pursuant to the policy decision of the government / authority insofar as exercising the option of a



particular pay-scale irrespective of employee of the MRDA or who is on deputation to MRDA. Accordingly, the appellant had exercised option of pay-scale with reference to the policy decision of the government read with its adoption by the MRDA.

5. The MRDA has proposed for adoption of sixth pay revision to the State government and the State refused to give effect to the sixth pay revision to such of those employees and also who are on deputation and who had exercised option of pay scale of the State Government / MRDA. In other words, sixth pay revision has not been extended to such of those staff who were working in MRDA. The appellant could not apprise this Court in respect of exercising the option of its withdrawal to have the benefit of sixth pay revision with reference to the fact that his parent department is Office of the Accountant General, Patna. Therefore, once option is exercised to choose a particular pay scale, there is no provision for its withdrawal that too after lapse of 16 years, since CWJC No. 2978 of 2016 was presented in the year 2016 whereas grievance of the appellant is relating to the period from 01.04.1997 to 31.12.2000.

6. Be that as it may, in paragraph 6 of the counter affidavit filed on behalf of the office of the Accountant General in which they have stated that sixth pay revision has been extended



to the appellant. The appellant is not satisfied as it was not for the entire period from 01.04.1997 to 31.12.2000. Taking note of these facts and circumstances, we are not inclined to interfere with the order of the learned Single Judge dated 26.08.2019 passed in CWJC No. 2978 of 2016.

7. Accordingly, present LPA stands dismissed.

**(P. B. Bajanthri, J)**

**(Ramesh Chand Malviya, J)**

GAURAV S./-

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