

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2691 of 2020

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Lakhendra Prasad Singh, Son of Late Ishwar Singh, Resident of Village-Bindidih, P.S.- Silao, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Finance, Government of Bihar, Patna.
2. The Principal Secretary, Department of Personnel and Administrative Reforms, Bihar at Patna.
3. The Under Secretary, Department of Finance, Government of Bihar, Patna.
4. The Commissioner, Patna Division Patna.
5. The District Magistrate, Nalanda.
6. The Additional District Magistrate, Nalanda.
7. The Deputy Collector (Establishment), Nalanda at Biharsharif.
8. The District Accounts Officer, Nalanda at Biharsharif.
9. The Accountant General (A and E), Bihar, Beerchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Advocate
		Mr. Shrish Anurag, Advocaate
For the Respondent/s	:	Mr. Parijat Saurav, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 02-12-2024

Heard Mr. Kumar Kaushik, learned Advocate for the petitioner and Mr. Parijat Saurav, learned Advocate for the State.

2. Initially the writ petition has been preferred seeking quashing of the order dated 13.09.2018, as contained in Memo No. 1024, issued by the District Magistrate, Nalanda, whereby the fixation of the salary of the petitioner approved by the District Accounts Officer, Nalanda has been justified in



pursuant to letter no. 828 dated 18.05.2018, issued from the Office of Commissioner, Patna in the light of advisory noting of the Department of Finance. The petitioner also sought a direction upon the respondent authorities to rectify the anomalies of the entire process of wrong fixation of pay scale vide order dated 07.01.2004, duly signed by the respondent no.7 and subsequently do the needful to fix the salary of the petitioner in the pay scale of Rs.5500-9000/- with effect from 09.08.1999 considering into account the basic salary to the tune of Rs.8000/- at the moment of superannuation.

3. However, the learned Advocate for the petitioner has come out with a fair stand and confined his relief only to the extent as prayed for in the I.A. No. 1 of 2024.

4. It is urged that earlier the petitioner had approached before this Court in C.W.J.C. No. 1190 of 2011 seeking a direction upon the respondents to extend the monetary benefit of Assured Career Progression (ACP), which has been decided to be given to the petitioner with effect from 09.08.1999 in view of order dated 02.11.2001; the aforesaid writ petition came to be disposed off with a direction to the concerned respondent to consider the claim of the petitioner and extend the monetary benefit, in case, the claim of the petitioner finds



favour (The copy of the order is annexed as Annexure-1 Series).

5. Pursuant thereto, the petitioner filed a representation, which came to be rejected vide order dated 25.04.2011 passed by the District Magistrate, Nalanda. By the aforesaid order, the direction has also been given to recover Rs.69,398/- which was said to be paid excess to the petitioner vide Bill No. 43-26/2011/Mu./Stha. The order aforesaid was questioned by the petitioner, but to the part, whereby a direction was given to recover Rs.69,398/- in C.W.J.C. No. 20594 of 2011. Finally, the writ petition came to be allowed vide order dated 26.06.2016 and the impugned order of recovery has been quashed and the respondents were directed to refund the recovered amount. The petitioner again approached this Court in C.W.J.C. No. 997 of 2018 seeking grant of the benefit of pay scale of Rs.5500-9000/- with effect from 09.08.1999, which came to be allowed by the respondents way back in the year, 2004 itself. The said writ petition also came to be disposed of with a direction to the petitioner to file representation before the Collector, Patna/ the Commissioner, Patna. In pursuant thereto, the petitioner filed a fresh representation, however, in the said representation the petitioner re-agitated the grievance, which has not been raised in C.W.J.C. No. 20594 of 2011, as also in



C.W.J.C. No. 997 of 2018.

6. In the aforesaid premise, Mr. Kumar Kaushik, learned Advocate for the petitioner contended that since the petitioner has never assailed the part of the order whereby the pay scale of the petitioner has been reduced and as such on the instruction of the petitioner he is not pressing his grievance with respect to the admissible pay scale. However, learned Advocate further contended that irrespective of all these facts the petitioner is entitled to get the consequential monetary benefit of 2nd ACP in the pay scale of Rs.5500-9000/- with effect from 09.08.1999 in terms of the order dated 09.11.2004 by which 2nd ACP has already been sanctioned in favour of the petitioner. Attention of this Court has also been drawn to Annexure-11 of the Interlocutory Application No. 1 of 2024, the order issued by the District Magistrate, Nalanda, as contained in Memo No. 9 dated 25.04.2011, especially Para 8 thereof, wherein the District Magistrate, Nalanda has directed to ensure payment of arrears of difference of salary and other benefits on account of extending the benefit of 2nd ACP.

7. It is the contention of the learned Advocate for the petitioner that till date, the petitioner has not been allowed the arrears of salary/ pension on account of 2nd ACP, compelling



him to approach before this Court once again. Now the grievance of the petitioner is only confined to the reliefs sought for in I.A. No. 01 of 2024.

8. Learned Advocate for the State referring to the averments made in the counter affidavit has submitted that with regard to entitlement of 2nd ACP to the petitioner, the issue has already been resolved way back in the year 2004 vide order dated 09.01.2004; since the petitioner has already superannuated on 31.01.2004, it is required to be looked into by the concerned authorities as to whether the petitioner has been extended the monetary benefit of 2nd ACP or not.

9. Referring to the order of the District Magistrate, Nalanda as contained in Annexure-11, it is further contended that, *prima facie*, it appears that the petitioner has not been cooperating with the respondent authorities and till that time the petitioner has not furnished the requisite application for revision of pension.

10. Be that as it may considering the admitted position that the petitioner has already been accorded the benefit of 2nd ACP in the pay scale of Rs.5500-9000/- with effect from 09.08.1999 in terms of the order dated 09.01.2004, this Court has left with no other option, but to direct the District



Magistrate, Nalanda to consider the claim of the petitioner after proper verification of the record as to whether the petitioner has been accorded the consequential monetary benefits in terms of the aforementioned order.

11. In case, the petitioner has not been accorded the consequential monetary benefits in terms of the aforementioned order granting the benefit of 2nd ACP, the same must be done preferably within a period of twelve weeks from the date of receipt/production of a copy of this order.

12. Suffice it to observe that the petitioner has already superannuated way back in the year 2004, the authorities must adhere to the period stipulated in order to give quietus to the litigation.

13. It is also expected that the petitioner shall ensure his cooperation with the respondent authorities.

14. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2024
Transmission Date	NA

