

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1169 of 2022

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Md. Tahir Hussain, S/o Late Abdul Sakur, R/o- Vill-Taralahi, P.S. -
Bahadurpur, Distt. - Darbhanga, State-Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geological Department, Govt. of Bihar, New Secretariat, Patna.
2. The Commissioner, Mines and Geological Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Mines and Geological Department, Govt. of Bihar, New Secretariat, Patna.
4. The District Mining Officer Munger, Distt.- Munger.
5. The Mines Development Officer Munger, Distt.- Munger.
6. The Accountant General, Govt. of Bihar, Veer Chand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kedar Jha, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7
For the Mines Dept.	:	Mr. Nresh Dikshit, Advocate
		Mr. Brij Bihari Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 27-03-2025

Heard the parties.

2. The petitioner, who superannuated from the post of Head Clerk from the District Mining Office, Munger on 30.06.2008, has approached this Court seeking a direction upon the respondents to make payment of difference of retiral benefits in each and every head; inasmuch as all the retiral benefits of the petitioner was paid on unrevised pay-scale by treating the pay-scale of the petitioner as Rs.5500-9000 with Grade Pay of Rs.4200/- instead of Grade Pay Rs.4600/-.



3. Mr. Kedar Jha, learned Advocate for the petitioner advertent to the facts enumerated in the writ petition, has contended that this is the third round of litigation and now the petitioner has attained the age of more than 75 years but till date he has not been accorded his rightful entitlement on account of revision of pension in the rightful pay-scale with rightful grade pay. Earlier, the petitioner had preferred C.W.J.C. No. 15285 of 2009 with the grievance of incorrect fixation of pension despite the Government order communicated to the Accountant General as per letter no.599 dated 19th August, 2008. The aforesaid writ petition came to be disposed off with a direction to the petitioner to approach the concerned authority. Pursuant thereto, the petitioner represented before the authority concerned but his grievance was not redressed; hence, another writ petition came to be filed bearing C.W.J.C. No.17431 of 2019 for identical relief(s).

4. The respondent authorities of the Mines and Geological Department has come out with a categorical averment that the salary of the petitioner has already been stood revised and the authorization of pension/gratuity has already been issued vide PPO No. 454591P3 in the scale of PB-2 with G.P. 4600/- after receiving sanction along with the service book



and pension related documents. However, to the utter surprise, the counter affidavit came to be withdrawn on the premise that it has been wrongly filed by the Department. In such circumstances, the writ petition has further been disposed off with a liberty to the petitioner to agitate his substantive grievance before the concerned authorities. This is the third round of litigation which has been running since 2022.

5. Mr. Jha, learned Advocate for the petitioner has straightway taken this Court through Annexure-5 to the writ petition and contended that taking note of the fact that the petitioner was accorded the benefit of 1st ACP after completion of 12 years in the pay-scale of Rs.5000-8000, subsequently, he has been accorded 2nd ACP in the pay-scale of Rs.5500-9000 vide Memo No. 1591 dated 05.08.2008; accordingly, the pay-scale of the petitioner was revised in the pay-scale of Rs.5500-175-9000 with associated grade pay of Rs.4600/-. Consequent thereto, Annexure-6 as contained in letter no. 532 dated 28.09.2012 came to be passed by the District Mining Officer, Munger, admitting the entitlement of the petitioner to the Grade Pay of Rs.4600/- which is associated with the pay-scale of Rs.5500-175-9000. It is this letter on the basis of which the P.P.O. has been issued by the office of the Accountant General.



Nonetheless, the Department is adamant that since the petitioner was holding the post of Head Clerk in the office, in no circumstances, he would be entitled to get Grade Pay of Rs.4600/- rather he is entitled to get Grade Pay of Rs.4200/-, which is said to be admissible with the pay-scale of the Head Clerk.

6. Mr. Brij Bihari Tiwari, learned Advocate for the Mining Department has taken this Court to various averments made in the counter affidavit filed on behalf of the respondents no.4 and 5; finally he drew the attention of this Court to the letter no.107 dated 15.02.2025 and submitted that the claim of the petitioner was duly considered after going through the service-book and the sanction letter and it has been found that the petitioner was holding the post of Head Clerk in the District Mining Office, Munger with the pay-scale of Rs.5500-9000 but he is not entitled to Grade Pay of Rs.4600/- rather the petitioner is entitled to Grade Pay of Rs.4200/-, which has rightly been accorded to him. The Resolution of the Government of Bihar in the Department of Finance as contained in Memo No. 11989 dated 30.12.2011 has also been referred to substantiate the afore-noted stand and submission has been made that it is very much clear from the chart that Head Clerk of the different



offices/departments is entitled to get pay-scale of Rs.5000-8000 with Grade Pay of Rs.4200/-.

7. Having given anxious consideration to the submissions advanced by the learned Advocate for the respective parties and after going through the materials available on record, this Court finds substance in the writ petition. It is the admitted position that the petitioner who had been holding the post of Head Clerk has been accorded the benefit of 1st ACP in the pay-scale of Rs.5000-8000 after completion of 12 years and, later on, 2nd ACP after completion of 24 years in the pay-scale of Rs.5500-9000; the Grade Pay which is associated with pay-scale Rs.5500-9000 is only Rs.4600/-. On the basis thereof, the pension of the petitioner was rightly revised and necessary sanction order was issued but it is rather unfortunate, the same has been withdrawn and cancelled, but on misconceived notion. The respondent authorities could not be able to justify that once the petitioner has already been accorded the benefit of 2nd ACP and thereby granted the pay-scale of Rs.5500-9000/- even in such circumstances, the petitioner is entitled to get Grade Pay of Rs.4200/-; rather this Court finds that it is only Grade Pay of Rs.4600/-, which is associated with the pay-scale of Rs. 5500-9000.



8. In view of the aforesaid facts, this Court left with no option but to set aside the order of the District Mining Officer, Munger as contained in letter no.107 dated 15.02.2025 and directed the respondent no.3 to consider the claim of the petitioner for revision of pension and other benefits as has been prayed for in the writ petition in the pay-scale of Rs.5500-9000/- with Grade Pay of Rs.4600/-, which is associated with the afore-noted pay-scale; and pass necessary consequential order in accordance with law.

9. The entire exercise must be completed, preferably within a period of twelve weeks' from the date of receipt/production of a copy of this order with necessary consequential benefit(s).

10. The writ petition stands allowed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07-04-2025
Transmission Date	

