IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4644 of 2020

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Ashok Kumar, Son of Late Baldeo Singh, resident of Mohalla- Mahavir Asthan, Moldiar Tola, P.O./P.S.- Mokama, District- Patna

... ... Petitioner/s

Versus

1. Union of India through the Secretary, Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprises, Public Enterprises Bhawan, Block No. 14, CGO Complex, Lodhi Road, New Delhi-110003
2. The Secretary, Ministry of Textile, Govt. of India, Udyog Bhawan, New Delhi
3. National Textile Corporation Limited, Scope Complex, Core-IV, Lodhi Road, New Delhi-110003, through its Chairman -cum-Managing Director,
4. The Chairman-cum-Managing Director, National Textile Corporation Limited, Scope Complex, Core-IV, Lodhi Road, New Delhi-110003
5. The Director (H&R), National Textile Corporation Limited, Scope Complex, Core-IV, Lodhi Road, New Delhi-110003
6. The Managing Director-cum-Incharge, National Textile Corporation Limited, 7, Jawaharlal Nehru Road, Kolkata-700013
7. The General Manager/Incharge, Arati Cotton Mills, National Textile Corporation Limited, Sub-Office, Kolkata, 7, Jawaharlal Nehru Road, Kolkata-700013

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sidhendra Narayan Singh, Advocate
For the NTC	:	Dr. Mayanand Jha, Sr. Advocate with
		Mr. Giridhar Gopal Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 16-06-2025

Heard the parties.

2. This is the second round of litigation, as earlier the prayer of the petitioner for grant of revised pay scale in the pay band of Rs. 9300-34800 with corresponding Grade Pay of Rs.6500-10500 w.e.f. 01.01.2006 as per the 6th Central Pay Commission Report came to be negated by a learned Bench of

this Court in C.W.J.C. No.2303 of 2015. Aggrieved, the petitioner preferred Letters Patent Appeal No.1248 of 2018. Suffice it to observe that the learned Division Bench of this Court did not find any error in the judgment of the learned Single Judge so as to interfere with the same; however, liberty was accorded to the appellant/petitioner herein to establish his claim in the event any such official who did not opt for the MVRS yet was extended the said benefit. It was made clear that if this would be established by the appellant then the Corporation would be liable to consider the same in accordance with the treatment meted out to any such employee. The decision of the learned Division Bench was also put to challenge in S.L.P. (C) No.19159 of 2016; however, S.L.P. (C) No.19159 of 2016 also stood dismissed *in limine*.

3. Taking shelter of the liberty extended in favour of the petitioner by the learned Division Bench of this Court, the petitioner filed a detailed representation (Annexure-12). In order to establish discrimination meted out to the petitioner, a list of officers/employees working under the different Mills have been placed in the representation. The name of some of the officials

of Subsidiary Offices of different States have also been mentioned, who are said to have been accorded the benefit of 6th Pay Commission.

4. While pressing the present writ petition, learned Advocate for the petitioner primarily drew the attention of this Court to Annexure-6/a and it is submitted that Central Public Sector Enterprise (In short, CPSE) is treated as a single entity and consequently, pay/wage revision has to be based on the performance/profitability of the company as a whole and not separately for each unit. The Office Memorandum dated 30th April, 2013 made it clear that different units within the same CPSE cannot have different pay/wage structures. It is further contended that the specific averment of the petitioner that identically situated persons have been extended the benefit of 6th Pay Revision Commission has though been denied by the respondents but without there being any substance. Drawing the attention of this Court to the various letters of superannuation with respect to different identically situated persons, it is contended that they all have retired on attaining the age of superannuation and this fact has not been denied rather

application for opting MVRS by those employees have been placed on record and, as such, the respondent-National Textile Corporation Limited has failed to answer the specific contention of the petitioner.

5. Referring to the order dated 17.03.2025 passed in the present matter, Mr. Singh, learned Advocate for the petitioner further contended that notwithstanding the specific direction of this Court to clarify the position as to why the case of the petitioner is not identical to those, whose names have been mentioned in Annexure-12, the respondents no. 2 to 7 have conveniently given some misleading facts and in para-5 of the supplementary counter affidavit, it is submitted that one Sri Arun Kumar Jha had opted for MVRS and was transferred to the only working Mill i.e. Arti Cotton and was sent to the BCWSM to look after the safety and security of the same in the interest of the company and that is why he was continued till attaining the age of superannuation.

6. The aforesaid fact is said to be an incorrect statement. To support the aforesaid contention, learned Advocate for the petitioner further submitted that the petitioner

has obtained the photocopy of the attendance register, which clearly suggests that Sri Arun Kumar Jha was all along serving in the Bihar Cotton Spinning Mill, Mokama. It is also the contention of the petitioner that with respect to other employees who were working in the Kanpur Subsidiary like the petitioner, have been allowed the benefit of 6^{th} CPC but with respect to that it is stated on behalf of the respondents no.2 to 7 that since those of the employees of Kanpur Units were on roll on 01.01.2016, they have been allowed the benefit of 6^{th} CPC but as the petitioner had already retired on 31.05.2014, therefore no benefit of pay revision was accorded to him.

7. Refuting the aforesaid contention, learned Senior Advocate appearing on behalf of the National Textile Corporation Limited has taken this Court to the Circular dated 30.04.2010 and categorically stated that there is no iota of confusion that the employees of the closed Mills/J.V. Mills and erstwhile subsidiary offices of the Corporation who opted for transfer to the New Green Field Projects, can also apply for MVRS. However, acceptance of their MVRS will be subject to the decision of the Management on their suitability for transfer

to the Green Field Projects or elsewhere and availability of vacancy. Reiterating the Circular, it is further contended that all concerned employees are requested to avail the benefits of MVRS; however, some of left over employees like the petitioner did not opt for the MVRS and they have been denied the benefit of 6^{th} CPC.

8. Taking this Court through the order of the learned Single Judge as well as the learned Division Bench of this Court passed in L.P.A. No.1248 of 2018, learned Senior Advocate further contended that the issue has already been put to a quietus and the petitioner is raising the plea of discrimination without any substance. It is further contented that in pursuant to the order of this Court dated 17.03.2025 specific supplementary counter affidavit came to be filed with a categorical assertion that the claim of the petitioner that his case is based on parity, is incorrect besides unfounded and not tenable. The person with whom the petitioner is seeking parity have opted for MVRS and only those employees have been accorded the benefit of 6^{th} CPC.

9. This Court having been conscious of the facts and

limited scope of the writ to the extent of equality and the claim of parity with those, who have been extended the benefit of 6th Pay Revision now proceeded further. It would be apt to highlight some relevant facts for determination of the issue as to whether the petitioner is able to establish that the Corporation is liable to consider his case for extending the similar benefits on the principle of Article 14 of the Constitution of India.

10. Admittedly, the petitioner after completion of his training was duly appointed as a Marketing Officer in Bihar Co-operative Weavers' Spinning Mills, Mokama . On account of discrimination meted out to the petitioner, while extending promotion, the petitioner had approached this Court in CWJC No. 12446 of 2005, which came to be allowed on 26.09.2007. In the light of the order of the Hon'ble Court, the petitioner was extended benefit of promotion. While allowing the writ petition, the Court has also taken note of the facts that since the Mokama Unit is closed for a long time, it will be open to the respondent to utilize the services of the petitioner to any functional unit commensurate to his post and position by virtue of the grant of this promotion. The observation was made in the light of the

nature of the services of the petitioner, as his transfer could have been done in any other Office/Mills under National Textile Corporation.

11. In the light of the observation of this Court, the petitioner had been filing representation for his transfer and posting to other Mills and Offices, which were found functional but it is the admitted position, the same could not have been done and the petitioner was allowed to superannuate from Mokama Unit. The dispute is only with respect to extending the benefit under the 6th CPC as the petitioner and others have been duly allowed 4th and 5th CPC.

12. This Court does not want to make repetition of the facts relating to the issue of entitlement of the 6th CPC to the petitioner and others, who failed to opt MVRS as it has stood settled and affirmed up to the Hon'ble Apex Court. However, only with a liberty in case the petitioner is able to establish his case that he was subjected to discrimination and the respondent authorities have not treated their employees equally and fairly. The entire endeavour of the petitioner is that the various officials of Kolkata and Kanpur Subsidiary have been extended

the benefit of 6th CPC. To strengthen his submission, the name of nine persons of Kolkata Subsidiary and the name of twenty-five persons of Kanpur Subsidiary were specifically mentioned in his representation, which is placed on record as Annexure-12 to the writ petition and in fact, the same was filed pursuant to the liberty extended to the petitioner in LPA No. 1248 of 2018. There are name of other employees of different mills, which were non functional and closed for long but it is contended that they have also been accorded the benefit of 6th CPC, notwithstanding the fact they have never applied for MVRS.

13. Based upon the aforesaid facts, giving specific instances with specific name of the employees, who have been accorded the benefit of 6^{th} CPC, it is contended that the rigors provided under Circular dated 30.04.2010 stands diluted; hence the denial of identical benefit to the petitioner is not only arbitrary and discriminatory but violative of Article 14 of the Constitution of India.

14. It would be pertinent to note here that during the pendency of the writ petition, the claim of the petitioner was examined afresh and it came to be rejected vide order dated

24.07.2024, which order was also challenged by filing interlocutory application.

15. On perusal of the impugned order dated 24.07.2024, this Court finds that the very ground for negating the claim of the petitioner is confined to the ground that since the petitioner retired on 31.05.2014 (C/H), therefore, he will not get the benefits of Pay Revision. It has also been informed that the employees of Kanpur Unit, who have got the benefits of 6th Pay Revision, they were on role dated 01.01.2016. The aforesaid ground was taken in the light of the guidelines issued vide office order dated 05.02.2016 by the National Textile Corporation Limited, New Delhi that the benefit of the Pay Revision will be extended to the employees of JV/closed mills, who are on role on NTC on 01.01.2016.

16. Since the aforesaid guidelines is not under challenge, therefore, it does not require any adjudication at the moment. However, this Court is surprised to see that despite the specific name and instances shown by the petitioner, the respondent has not disclosed the date of their superannuation.

17. It is utter surprise to this Court that a counter

affidavit came to be filed and while refuting the contention of the petitioner based upon parity, it is averred that cited name of persons like Sri Chaitanya Kr. Sarangi, Sri Kazi Bazlur Rahim, Sri Sayed Fazle Karim, Sri Sunil Basak, Sri Prabir Ghosh, Sri Arun Kumar Jha and Sri Tarun Kumar Roy have been extended the benefit of 6th Pay Revision but only on account of the fact that they opted for Modified Voluntary Retirement Scheme; so far the petitioner is concerned, he had not opted for the same. Thus, he cannot claim parity with them.

18. To support the aforesaid contention, the applications filed by the aforenoted persons placed on record as Annexure-R/A series. However, this Court is not satisfied, as primarily, the respondents have failed to bring the order(s) accepting their application for MVRS, especially, in view of the Annexure-12 to the writ petition where the petitioner has brought on record the superannuation letter of all the aforenoted persons and the letter of pay fixation, consequent upon the 6th CPC in their favour. The superannuation letter of Sri Arun Kumar Jha, Sri Tarun Kumar Roy, Sri Buddhadev Mukherjee, Sri Prabir Ghosh, Sri Sunil Basak, Sri Uttam Kr. Majumdar, Sri

Kazi Bazlur Rahim, Sri S F Karim and Sri C K Sarangi clearly demonstrate that they have superannuated much prior to coming into force of new guidelines issued by the National Textile Corporation Limited, New Delhi dated 05.02.2016, but they have been extended the benefit of 6th CPC.

19. This Court is unable to accept the stand of the respondent Corporation that at one hand, it is stated that they have been extended the benefit of 6th CPC on account of acceptance of their option for MVRS, though there is no order for acceptance of the application and its approval; on the other hand, they failed to answer the very specific contention of the petitioner based upon the letter of superannuation as well as the consequent pay revision in 6th CPC.

20. The Corporation while filing the supplementary counter affidavit in terms with the order of this Court dated 17.03.2025 has further tried to clarify the position and submitted but only with respect to one Sri Arun Kumar Jha that he had opted for MVRS and was transferred to the only working mill i.e. Arti Cotton and was sent to BCWSM to look after the safety and security of the same in the interest of the company that is

why he was continued till attaining the age of superannuation. There is no response with respect to other aforementioned persons.

21. It is not the case of the petitioner that he never shown his willingness to work in a functional mill rather in the light of the observation of this Court in CWJC No. 12446 of 2005, he had been representing before the authorities to transfer and post him under any of the functional mill or the office, but the same has not been done.

22. This Court is not satisfied with the reply of the Corporation where he failed to answer the very specific contention of the petitioner by giving specific name and instances with their superannuation letter and consequent pay revision along with his representation marked as Annexure-P/12. The respondent Corporation also failed to clarify as to whether the name of the various persons, who had been working in the said subsidiary offices superannuated prior to coming into force of the guidelines dated 05.02.2016 and at least on 01.01.2016, the date on which the guidelines has been made operational.

23. On account of the discussions made hereinabove, this Court prima facie is of the opinion that the petitioner has made out a case of parity and thus discrimination of the case of the petitioner with other identically situated person clearly violates Article 14 of the Constitution of India.

24. Accordingly, the impugned order dated 24.07.2024, as contained in Annexure-P/13 to the interlocutory application stands set-aside. The writ petition is hereby allowed and the matter is relegated to the respondent nos. 5 and 6 to make deliberation in the matter afresh and if they come to the conclusion that if the case of the petitioner is at par with any of the aforementioned employees, he must be accorded identical benefit and revised pay notionally for retirement compensation, as has been done in the case of others.

25. It is expected that the entire exercise must be completed preferably within a period of three months, from the date of receipt/production of a copy of this order. It is also expected that the respondent authorities shall adhere to the time limit, in view of the fact that the petitioner has already superannuated long back on 31.05.2014, itself.

26. Pending application(s), if any, also stands disposed off.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-06-2025
Transmission Date	NA