

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5246 of 2020

=====

Jyoti Kumar Verma @ Jyoti Verma, Son of Late Bhuneshwar Prasad, At Present Posted as Clerk State Council of Education, Research and Training having Mahendru, P.S. Sultanganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary (Education) Department having his office at Vikas Bhawan Station Sachivalaya, District- Patna.
3. The Director, Secondary Education having his office at Budha Marg, P.S. Kotwali, District- Patna.
4. The Director, State Council of Education, Research and Training having his Office at Mehendru, P.S. Sultanganj, District- Patna.
5. The Director, Directorate, Library and Information Centre Patna having his Office Sinha Library Road, Police Station Kotwali , District- Patna.
6. The Accountant General (A and E) Bihar, Patna having its office at Birchand Patel Path, P.S. Kotwali, District Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Vikas Mohan, Adv.
For the Respondent/s : Mr. Madhaw Prasad Yadaw, GP-23

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 14-07-2025 Heard the parties.

2. The petitioner has approached this Court, seeking of a writ in the nature of mandamus directing the petitioner to post him against any vacant and sanctioned post to commensurate with his status, being a senior most clerk in the central cadre. It is informed to this Court that the petitioner, a senior most clerk of the central cadre, stands at serial no. 1 in the seniority list having pay scale of 9300-34800 grade pay 4800 PB II.



3. After making argument, at some length, the learned Advocate for the petitioner specifically contended that during the pendency of the writ petition, now the petitioner came to be superannuated on 30.09.2021 and, as such, in view of subsequent development an interlocutory application bearing I.A. No. 2 of 2024 was filed for amendment of the prayer *inter alia* seeking a direction for payment of difference of arrear of salary to the petitioner, in lieu of discharging the duty of higher post of Head Clerk with effect from 01.01.2014 to 16.07.2019 as also for fixation of his post retiral benefits, based upon fixation of the scale of head clerk.

4. The entire thrust of the learned Advocate for the petitioner is in narrow campus. It is vehemently contended that since the petitioner has been continuously discharging the duty and responsibility of Head Clerk from 01.01.2014 to 16.07.2019 as a whole time functionary, he is entitled for the salary attached to the post in terms with Rule 103 of the Bihar Service Code, 1952.

5. To reinforce the aforesaid submission, reliance has been placed on a Division Bench decision of this Court in the case of ***Dr. Nitya Gopal Bandyopadhyay vs. The State of Bihar & Ors.*** reported in ***2008 (1) PLJR 245*** wherein the Court having



taken note of the fact that the appellant of the said case was directed to officiate on the post of Principal and he retired from the said officiating post of Principal, which involves assumption of duties or responsibility of greater importance than those attached to the post then held by the appellant, held him entitled to the highest pay to which he would be entitled with his appointment to that post stood alone.

6. Further reliance has been placed on a decision in the case of ***Prafulla Ranjan Shrivastava vs. The State of Bihar & Ors.*** reported in ***2008 (3) PLJR 144*** wherein the Court taking reference to Rule 103 of the Bihar Service Code, 1952 has emphasized that the Rule is entitled to take care of a situation where an employee is given an additional charge on a purely temporary and transitional basis, where permanent arrangement is not required. On being found that the incumbent holding additional charge of Chief Town Planner for almost a year before retiring. The learned Division Bench held the appellant entitled to the preferential amount of salary and post retiral benefit.

7. Taking this Court through the decision afore-noted learned Advocate for the petitioner thus contended that now the grievance of the petitioner is only confined to the amended



prayer as made in the interlocutory application.

8. A counter affidavit has been filed, however the point raised in the interlocutory application whereby the amended prayer has been made, has not been responded with clarity, except an evasive denial.

9. In order to settle the dispute, this Court in the interest of justice, deems it fit and proper to direct the respondent no. 3 to consider the claim for payment of difference of arrears of salary to the petitioner for holding the higher post of Head Clerk with effect from 01.01.2004 to 16.07.2019, apart from other benefits and allowances and disposed off the same by a reasoned and speaking order, in the light of rulings of this Court as noted above, preferably within a period of 12 weeks' from the date of receipt/production of a copy of this order.

10. It is made clear that in case the claim of the petitioner finds favour, the necessary consequential order must be passed within the stipulated period.

11. The writ petition stands disposed off.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

