

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4343 of 2025

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Dr. Shiva Kumar Mishra Son of Sri Mahadav Mishra, Resident of Village and P.O. Satghara, P.S. Babubarhi District- Madhubani , at present resides at House of Doman Rai, North Mandiri, P.S.- Budha Colony, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna.
2. The Deputy Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar Karn, Adv.
For the Respondent/s : Mr. Sanjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-06-2026

Heard Mr. Sunil Kumar Karn, learned Advocate for the petitioner and Mr. Sanjay Kumar, learned Advocate for the State.

2. The petitioner has preferred the writ petition for the following reliefs:

“To issue writ/order/direction in the nature of Mandamus commanding the respondents to make payment of salary to the petitioner in the pay scale of grade pay i.e. Rs. 5400/- which is applicable for class -II post for which the petitioner is getting pay scale of Rs. 4200/- after granting promotion since 01.11.2023.

(ii) To issue direction to the respondents to make payment of difference of salary and allowance after



granting pay scale as per with class -II post since 09.07.2017 to 31.10.2023 for the period the petitioner had worked on Class- II post without granting promotion on the said post.

(iii) To issue any appropriate writ/order/direction to which the petitioner is entitled too in the facts and circumstances of the case.”

3. Learned Advocate for the petitioner pressing the present application submitted that despite the fact the petitioner is entitled to get pay scale of Grade Pay Rs.5400 which is provided to the State Government employee, the same has been denied to the petitioner, even when he has been discharging duty on Class II post since 09.07.2017 till his promotion from Class III to Class II post on 08.11.2023. It is further submitted that the counter affidavit has been filed on behalf of respondent nos. 1 and 2. However, the claim of the petitioner for salary in Pay Level-9 with Grade Pay Rs.5400/- has been negated on the ground that the petitioner was adjusted to the post of Research Assistant (Pay Band-II/Grade Pay-4200/-) and the service of the petitioner is to be counted from the date of Take Over of Bihar Research Society i.e., 02.03.2009 and his service prior to take over will not be counted as Government service and no benefit will be admissible on the basis of service rendered before 02.03.2009; since the petitioner belongs to Research Assistant



(Technical Assistant Cadre) and his claim for promotion would be considered only after promotion of his service in the said cadre.

4. It is submitted that the petitioner had also preferred CWJC No. 273 of 2017 which came to be disposed of with a direction to the Principal Secretary, Art, Culture and Youth Department to consider the grievance of the petitioner and pass appropriate order. In pursuant to the order of this Court, the concerned respondent passed the order as contained in Memo No. 576 dated 07.05.2019 and ordered that at present promotion of the petitioner is not admissible. It has further been said that the petitioner was not found eligible to be considered for promotion before 10.05.2018 and subsequently vide letter No. 713 dated 07.06.2018 a proposal was sent to the BPSC, but before any decision could be taken, the General Administration Department, Government of Bihar put a complete ban to extend any promotion. Later on the General Administration Department has come out with Notification No. 19300 dated 13.10.2023 and in the light of the provisions notified therein the petitioner was given temporary Ad-hoc charge of the post of Assistant Curator (Class III) under Ad hoc working arrangement vide notification No. 847 dated 01.11.2023.



5. Learned Advocate for the State on the other hand contended that the petitioner had not been given regular promotion and even under notification No. 847 dated 01.11.2023 he has been given charge of higher post on temporary Ad hoc basis, therefore in terms of Finance Department letter No. 7020 dated 24.12.2005 which deals with retrospective promotion, he is only entitled for promotion with effect from the date of assumption of charge under working arrangement. If the Departmental Promotion Committee clearly recommends for the same at the time of consideration of regular promotion of the petitioner on consideration, the petitioner shall be entitled to get benefit as has been prayed for.

6. Having considered the submissions advanced by the learned Advocates for the parties and after going through the Finance Department resolution dated 28.12.2005, this Court finds that the contention of the State, if accepted for the time being, the petitioner is entitled to get 20% of basic salary and maximum of Rs.250/- for the services rendered on higher post. Once this fact has not been denied that the petitioner has discharged duty on a higher post since 09.07.2017 to the date when he became entitled to be considered for promotion, final decision ought to be taken by the concerned respondent with



regard to such benefit.

7. In view thereof, this Court finds substance in the present lis to the extent that till date no decision has been taken with respect to the period under which the petitioner had worked on the higher post as noted hereinabove, in terms with notification No. 28.12.2005. Accordingly, instead of adjudicating the issue with respect to prayer no. 1 which shall be taken when the case of the petitioner shall be placed before the Departmental Promotion Committee, this Court deems it apt and proper to direct the Principal Secretary, Art, Culture and Youth Department, Government of Bihar, Patna to consider the claim of the petitioner with respect to 20% of basic salary and maximum of Rs.250 for the period he rendered his duty on the higher post, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

8. This disposes the writ petition.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.06.2026
Transmission Date	

