
(2007) 07 PAT CK 0157

Patna High Court

Case No: CWJC No. 14170 of 2004

Harendra Kishor Saran

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: July 13, 2007

Citation: (2008) 3 PLJR 356

Hon'ble Judges: Barin Ghosh, J

Bench: Single Bench

Advocate: Bankey Bihari Singh, for the Appellant; R.K. Singh for the Respondents and Mr. Umakant Singh for the A.G., for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Barin Ghosh, J.

Heard both the parties. The petitioner was in the Scale of Rs. 940-1660 after he obtained his first time bound promotion. This scale was replaced by the Scale of Rs. 2,000-3,500 on revision. Petitioner retired in the said scale. After his retirement, his pension was settled at Rs. 1669/- per month. Subsequent to such settlement, petitioner was accorded second time bound promotion in the scale of Rs. 2,000-3,800. Subsequent thereto while revising the pension of the petitioner, it was decided that the petitioner would be entitled to pension of Rs. 1626/-. That has resulted in filing of the present writ petition.

2. Although, a counter affidavit has been filed by the State, which has been affirmed by the Deputy Director, Youth Department, Bihar and although in the affidavit, a letter of the Government dated 29th March, 2003 signed and executed by the Secretary to the Government has been relied upon to justify the said action on the part of the State but in fact, nothing has been brought on record to justify the same. It has not been contended either in the affidavit or in the said letter that the petitioner was not entitle to upon grant of first time bound promotion the scale of Rs. 2,000-3,500 and that he did not retire in the said scale. It has also not been

denied that by reason of grant of second time bound promotion the petitioner became entitle to the scale of Rs. 2,000-3,800. It is an undisputable fact that the petitioner having reached at the top of the scale at the time of his retirement was receiving a sum of Rs. 3,500/- and accordingly, by reason of grant of the second time bound promotion, he ought to have had retired at Rs. 3,800/- inasmuch as the petitioner reached at the top of the said scale of Rs. 2,000-3,500 more than three years before his retirement. In such situation, there being no just reason to support the settlement of the pension of the petitioner at Rs. 1626/- upon grant of the second time bound promotion, a rubbish affidavit has been filed by the State.

3. In such view of the matter, the respondent State is directed to settle the pension of the petitioner from the date of his retirement taking into account that the petitioner retired while drawing a salary of Rs. 3,800/- per month within a period of two weeks from today and pay such pension less payments already made within four weeks therefrom together with 5% interest, in default, the State shall be liable to pay interest @ 15% per month. The claim of the petitioner, as above, stands, disposed of. The remaining petition, as regards claim of the petitioner on account of Provident Fund, shall be heard on 27th July, 2007 when the matter shall be listed at the top of the list and the Director, Provident Fund is directed to cause production of the entire records pertaining to the Provident Fund of the petitioner in Court on that date.