
(2014) 01 PAT CK 0062
In the Patna High Court
Case No : CWJC No. 891 of 2014

Kartik Lal

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 21-01-2014

Acts Referred:

Citation : (2014) 3 PLJR 779

Hon'ble Judges : Mihir Kumar Jha, J

Bench : Single Bench

Advocate : Ajoy Kumar Chakraborty, Advocate for the Appellant; Ratan Kumar and Sunil Kumar Singh for IGIMS, Advocate for the Respondent

Judgement

Mihir Kumar Jha, J.—Heard learned counsel for the parties. The prayer of the petitioner in this writ application reads as follows:--

"Commanding the respondents to grant and pay the revised pay scale of Rs. 3050-4590 of Laboratory Assistant (Grade-II) to the petitioner which has been already approved by the All India Institute of Medical Sciences (AIIMS), New Delhi by notification No. F2-1/99 Estt. 1, dated 27.3.2006 (Annexure-3) and the respondents be further directed to implement the said approved pay scale from the date of notification dated 27.3.2006 to which the petitioner was entitled to and be directed to pay the consequential benefits."

2. Mr. Ajoy Kumar Chakraborty, learned counsel appearing on behalf of the petitioner, has submitted that even when the services of the petitioner was regularized by the Indira Gandhi Institute of Medical Sciences by an order dated 25.3.2009 pursuant to certain directions by this Court in C.W.J.C. No. 5913/2003 read with M.J.C. No. 510/2006, the petitioner though assigned the post of Lab. Attendant, Grade-III (Group-D), was given the pay scale of Rs. 2650-4000, whereas the pay scale of the Laboratory Assistant Grade-II in All India Institute of Medical Sciences was 3050-4590. On this basis Mr. Chakraborty is of the view that as a matter of fact when the Lab. Attendant,. Grade-II has also been

abolished in All India Institute of Medical Sciences in the year 2006 itself there was no justification either for the petitioner being assigned the post of Laboratory Attendant, Grade-III (Group-D) or giving him the reduced pay scale of Rs. 2650-4000. Proceeding further Mr. Chakraborty is of the view that since the respondents have also accepted the pay scale of All India Institute of Medical Sciences of Laboratory Attendant to be 3050-4590 and have further extended the pay scale of AIIMS for the other post, the petitioner being still continued with the post of Laboratory Attendant, Grade-III (Group-D) and the pay scale of Rs. 2650-4000 is discriminatory.

3. Counsel for the IGIMS, on the other hand, has submitted that the petitioner is bound by the terms and conditions laid down in the office order dated 25.3.2009 and cannot make out a case of equal pay for equal work by borrowing the concept of All India Institute of Medical Sciences, especially when the document which has been relied by the petitioner also refers to a different post, namely, Grade-II and not Grade-III of the post of Laboratory Attendant. In this regard he has also sought to explain that the qualification of the petitioner being only Matriculation with Science the pay scale which was given to the Laboratory Attendant of AIIMS having Graduate cannot be ipso facto made applicable.

4. In view of the aforementioned rival contention the issue for determination of this Court will be as to whether the petitioner firstly can claim equal pay for equal work by drawing the analogy of All India Institute of Medical Sciences. The submission that the IGIMS functions under the control of All India Institute of Medical Sciences and therefore, whatever pay scale has been given there will be also ipso facto made applicable has to be only noted for its being rejected. The pay scale has to be given on the basis of qualification and that is how in the order dated 25.3.2009 by which the services of the petitioner initially engaged on daily wages was sought to be regularized, it was clearly mentioned that the suitability of the concerned job was gone into. If, therefore, the petitioner's salary was fixed for the post of Laboratory Attendant by placing him in Grade III (Group-D) which will make a Class-IV employee, he cannot claim the salary which was being given at that point of time to a Laboratory Attendant, Grade-II in All India Institute of Medical Sciences. This becomes more clear from the information gathered by the petitioner himself from Right to Information Act wherein the authority has made it clear that there are two types of qualifications laid down for the post of Laboratory Attendant, one being B.Sc. and the pay scale of Rs. 3050-4590 being assigned only to those Graduate Laboratory Attendant. The petitioner admittedly is the Matriculate with Science and therefore, if by way of grace and in fact at the time of regularization from the daily wages a post was assigned for him other than that was available in All India Institute of Medical Sciences, he cannot ask for more or compare his case on equal terms with Grade-II of Laboratory Attendant of All India Institute of Medical Sciences. Thus, this Court does not find any merit in this application and the same is accordingly dismissed.