
(2010) 06 PAT CK 0012
In the Patna High Court
Case No : CWJC No. 5088 of 2006

Kashi Nath Mishra

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-06-2010

Acts Referred:

Citation : (2011) 1 PLJR 518

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Heard learned Counsel for the parties.

2. Petitioner wants quashing of the order dated 31.12.2005 which has been issued by Executive Engineer, Quality Control Division, Water Resources Department. The effect of the order which is contained in Annexure-1 is that the Petitioner's pay scale stands lowered with retrospective effect which has been passed without any opportunity to show cause and without application of mind.

3. At the outset the submission of the Petitioner is that the Petitioner along-with similarly situated other persons came to be appointed as Research Assistant giving pay scale of Rs. 230-450/-. The said pay scale stood revised to Rs. 400-660/-. Appointment was on the work charge establishment. That was way back on 24.1.1973.

4. The post of Research Assistant was redesignated as Assistant Research Officer with the same pay scale with that of the Research Assistant. This decision of the Respondent is dated 9.9.1978 which will be borne out from Annexure-5 to the writ application. Vide notification dated 30.6.1983 contained in Annexure-10 the Petitioner was brought to the regular establishment as Assistant Research Officer and was given revised pay scale. He has also been conferred the benefit of 1st time bound promotion in the year 1998 with effect from 1.7.1983 when it had become due.

5. All was well till the show cause was issued on 30.10.2001 which is Annexure-16 to the writ application. The stand of the Respondent in the show cause was that the Petitioner and some others had been wrongly given nomenclature of the post of Assistant Research Officer because that is the gazetted post and the same could not be conferred on this Petitioner and others by way of redesignation or notification of the kind issued in this regard. Reply was given but the same did not satisfy the authority and the Petitioner came to be reverted to the post of Research Assistant and subsequently even the pay scale stood reduced.

6. Besides other submissions learned Counsel for the Petitioner submits that similar was the fate of some other persons, namely, Kumar Kant Lal and Ratan Kumar. They too came before this Court challenging the decision of the Respondent and the Petitioner has brought on record the two decisions by way of supplementary affidavit. The decision of Kumar Kant Lal is Annexure-26/1 and the decision of Ratan Kumar is Annexure-26. In identical situation and similar order learned Single Judges in both the cases after due deliberation and consideration of the stand of the State quashed the impugned order and allowed the writ applications. The detailed reasoning has been provided by learned Single Judge in the case of Kumar Kant Lal and based on the said reasoning as well submissions made at the bar on behalf of the parties similar kind of relief came to be granted to Ratan Kumar. It is also stated that the decision rendered in the case of Kumar Kant Lal was affirmed by the Division Bench in LPA No. 833 of 2006 by order dated 12.3.2007.

7. The reasoning given in two decisions are also available and applicable to the present Petitioner. In above background the case of the Petitioner being no different than that of other persons who had already approached this Court. The Petitioner has made out a case of similar relief.

8. In view of above, Annexure-1 dated 31.12.2005 as well as the earlier order dated 18th November, 2002 contained in Annexure-2 stand quashed.

9. This writ application is allowed.