
(2003) 11 PAT CK 0076
In the Patna High Court
Case No : C.W.J.C. No. 3313 of 2003

Paras Nath Gupta

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 18-11-2003

Acts Referred:

Citation : (2003) 3 BLJR 2452 : (2004) 1 PLJR 484

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Modini Kant Jha, for the Appellant; V.N. Sinha, GP 9, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. The writ petitioner is aggrieved by the order, as contained in Annexure 1 dated 3-1-2003, whereby and whereunder the authorities have rejected the prayer of the petitioner for giving him notional promotion in the scale of Rs. 5000-15-8000.

3. The order impugned is being assailed mainly on the ground that the same is discriminatory inasmuch as that similarly situated Store Keeper, namely, Sushant Kumar Ghose Mallick, was placed in scale of Rs. 5000-8000.

4. It is submitted by the learned counsel appearing for the petitioner that though the petitioner superannuated yet he is entitled for the notional promotion in the scale of Rs. 5000-8000 with due annual increment at par with the similarly situated persons.

5. A counter-affidavit has been filed on behalf of respondent Nos. 1 to 3 stating therein, inter alia, that the petitioner was placed in the scale of Rs. 730-1080, as he was an appointee prior to 1-4-1981 according to the letter of the Finance Department dated 6-8-2002, as contained in Annexure 7, and ultimately, the petitioner was given the scale of Rs. 4500-7000 with effect from 1-1-1986, which was the replaced scale of the Store Keeper-cum-Accounts Clerk. In paragraph 4

of the counter-affidavit, it is categorically stated that one Mukhram Singh and Sushant Kumar Ghosh Mallick were wrongly give the replacement scale of Rs. 5000-8000 and in case of Mukhram Singh, his scale was reduced to 4500-7000, but it cannot be reduced in the case of Sushant Kumar Ghosh Mallick, as he has already superannuated.

6. From Annexure 7 to the writ application, it appears that pursuant to an order, issued by this Court in C. W.J.C. No. 618 of 1990 and L.P.A. No. 1984 of 1995, the replacement scale of Store Keeper-cum-Accounts Clerk was fixed as Rs. 4500-7000 and this scale was made available to the petitioner and other similarly situated persons.

7. The claim of the petitioner to fix his scale as Rs. 5000-8000 appears to be wholly misconceived for the reasons aforementioned and merely because Sushant Kumar Ghosh Mallick was given this scale erroneously, it cannot be a precedence for others to get it as illegality cannot be allowed to perpetuate.

8. For the reasons and discussions aforesaid, I do not find any merit in this application.

9. In the result, this application is dismissed.

10. No order as to costs.