

(2000) 02 PAT CK 0019
In the Patna High Court
Case No : C.W.J.C. No. 2649 of 1998 (R)

Ram Pravesh Singh

APPELLANT

Vs

Birsa Agricultural University and Others

RESPONDENT

Date of Decision : 25-02-2000

Acts Referred:

Citation : (2001) 1 PLJR 417

Hon'ble Judges : P.K. Deb, J

Bench : Single Bench

Advocate : Vijay Pratap Singh and A. Rawat Choudhary, for the Appellant; A.K. Sahani, for the Respondent

Final Decision : Allowed

Judgement

P.K. Deb, J.—The short point involved in this writ petition is with regard to fixation of pay scale of the Petitioner on his promotion to the post of Director, Administration under Respondent No. 1 i.e. Birsa Agricultural University, Kanke, Ranchi.

2. The admitted position remains that in the year 1981 some posts were created as per provisions of extra ordinary Act, 1981 with the prior sanction of the Chancellor in the administrative cadre of Birsa Agricultural University. One such post was created in the designation of Recruitment Officer in the pay scale of Rs. 700-1600/- (revised to Rs. 2200-4000). The next promotional post was Deputy Director Administration in the pay scale of Rs. 1200-1900 (revised to Rs. 3700-5700). The Petitioner was originally working in the National Institute of Foundry & Forge Technology, Hatia at Ranchi and holding the post of Office Superintendent since 1974. Because of his ability and experience he was searching for getting better prospect in his service career. On the basis of the advertisement made by the Birsa Agricultural University vide Advertisement No. 4/81 as contained in Annexure-2 the Petitioner applied for the post of Recruitment Officer in the pay scale as mentioned above. The pay scale of Recruitment Officer was Rs. 700-1600 as per advertisement made and such pay

scale was foreign to the pay structures at the relevant time either in the Central Government or in the State Government. Petitioner had made application for getting brighter pay scale of the post. After he was appointed, the post of Recruitment Officer was redesignated as Assistant Director Administration and the said nomenclature was also approved by the Board of Management of the Respondent No. 1 and notified so vide Annexure-4 on 8.9.1987. After three years of service as Recruitment Officer/Assistant Director (Administration) the Petitioner was eligible for promotion in the next post but as no promotion was there then he made representation and the Departmental promotion Committee was constituted for the purpose and the case of the Petitioner was also put to them and, as such, the Departmental Promotion Committee recommended the time bound promotion of the Petitioner but the said time bound promotion recommended by the D.P.C. was once accepted but afterwards cancelled by Respondent No. 2, the Vice Chancellor. The Petitioner came up against this cancellation before this Court in CWJC No. 2740 of 1994. The matter was sent back to the Chancellor for consideration but the promotion given to the Petitioner being unknown in the University regarding time bound promotion, the promotion order of the Petitioner was cancelled by the Chancellor on 13.5.1996. Then the matter came up for regular promotion of the Petitioner and it is the contention of the Petitioner that as per recommendation of the DPC the Petitioner was promoted to the higher post i.e. the post of Deputy Director, Administration and his pay scale was also recommended as per the usual pay scale of the University Grant Commission i.e. Rs. 1200 to 1900 (revised to Rs. 3700 to 5700) and according to the Petitioner the said notification was issued and signed by the Vice Chancellor on 7th day of February, 1997 which is contained in Annexure-11 to the rejoinder of the Petitioner but afterwards the same has been changed by giving ante date as 7th February, 1996 maintaining the promotion of the Petitioner to the post of Deputy Director, Administration but regarding the pay scale the notification at Annexure-1 contained in the following manner:-"His pay will be fixed in the State Government's scale of Rs. 3000 to 4500 which is in conformity with the decision of the Board of management held on 27.1.91 in its thirty second meeting under Agenda Item No. 644 A." The Petitioner's contention is that the recommendation of the D.P.C. could not be half heartedly accepted and the pay scale of the State Government cannot be accepted and there was practically no such decision in the thirty second meeting under Agenda No. 644A rather where U.G.C. scale has been accepted with regard to the employees of the Birsa Agricultural University then the Petitioner must get the pay scale as recommended by the U.G.C. and it cannot draw back to the State Government Scale.

3. In the counter affidavit filed by the Respondents other contentions made above from the side of the Petitioner had been accepted and it has been stated that U.G.C. scale was only accepted by the Birsa Agricultural University in respect of the teaching staff alone and non-teaching staff cannot claim the U.G.C. Scale and the same matter has been resolved in the management of

Board's meeting and, as such, the Petitioner cannot claim higher scale than that of the State Government's scale.

4. The position remains that when the Petitioner made application on the basis of the advertisement for his recruitment as Recruitment Officer vide Annexure-2 then the pay scale of the higher post i.e. Deputy Director, Administration was Rs. 1200-1900 which has now been revised to Rs. 3700-5700 and for brighter pay scale in the avenue of promotion etc. as per advertisement Annexure-2 the Petitioner had left his previous job and joined the Respondent No. 1. It has already been mentioned that such pay scales which were mentioned in the advertisement as Annexure-2 were unknown either to the State Government or to the Central Government and the recommendation of the D.P.C. was also in the same pay scales as per advertisement as Annexure-2 on promotion of the Petitioner on the post of Deputy Director, Administration. But such recommendation of the D.P.C. as has been stated in the counter affidavit had been accepted only in respect of promotion but not in respect of pay scale and Annexure-11 as has been stated from the side of the Petitioner was only a fabricated one. As the Petitioner being in the helm of affairs could manager to the non-teaching staff of Respondent No. 1 in the State Government scale as per the agenda 644A which was in respect of the Petitioner alone and the same has been annexed as Annexure-2 the counter affidavit but such decision was taken in the year 1991 when the matter of time bound promotion of the Petitioner was considered and such (sic) specifically mentions about the time bound promotion (Kalawadh Pronoti) and that was never in respect of usual promotion. The post of Deputy Director as per decision of the Respondent No. 1 was created along with other posts vide Annexure-10 and the post of Deputy Director was created in the pay scale of Rs. 120 to 1900 and the same pay scales is admittedly revised as Rs. 3700 to 5700. It is the contention of Mr. Sahni appearing for and on behalf of the Respondents that pay scale of the Petitioner is given in the U.G.C. scale then all non-teaching staff may claim so and it will be (sic) position for the Respondent No. 1 to provide such higher pay scale to all non-teaching staff. We are not considered (sic-concerned?) about the management Board's decision in respect of other non-teaching staff but we are concerned only in respect of the Petitioner in the present case and not formulating any rule regarding teaching and non-teaching staff in respect of pay scale either in the Bihar Government Pay scale or in the U.G.C pay scale. As the Petitioner had been promoted to the post of Deputy Director Administration which was created in the pay scale of Rs. 1200 to 1900 then the Petitioner cannot be denied of that pay scale in the revised form, on his promotion to that post. There is no decision of the management Board of reverting back of the pay scale of the Deputy Director, Administration to the Bihar Government's pay scale and such decision could not be shown from the side of the Respondents. In this respect a letter of the Ministry of Human Resources Development of the Govt. of India dated 2nd November, 1988 as contained in Annexure-12 has been referred to by the learned Counsel for the Petitioner. That letter requests the Secretary of the University Grants

Commission to revise the pay scales of Registrars, Deputy Registrars, Assistant Registrars of the Central Universities and to make it at par with the other Administrative Officers in the central Universities and that was a policy decision of the Central Government and when U.G.C. pay scale has been accepted by Respondent No. 1 in respect of its teaching staff then the said direction of the Central Government is binding on the Respondent No. 1 also and according to that pay scale the Deputy Registrar and the equivalent post in the administrative side are to get revised pay scale from Rs. 1200 to 1900 to Rs. 3700 to 5700. In that view of the matter, practically there remains no scope of the Respondents to deny the pay scale of the Deputy Director, Administration of the revised pay scale of Rs. 3700 to 5700. I have already mentioned that in respect of other non-teaching staff of the University are not being considered in the present writ petition and the revised pay scale to the post of Deputy Director, Administration should be available to the Petitioner from the date of his promotion and arrears must be paid to the Petitioner in the pay scale of Rs. 3700 to 5700 from the date of his promotion till this date within a period of two months from this date and he should be given current pay emoluments in the said pay scale till the date of his retirements.

5. The petition is allowed in favour of the Petitioner with the direction as mentioned above to the Respondent.