

(2009) 01 JH CK 0131
In the Jharkhand High Court

Shri Sidheshwar Prasad Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-01-2009

Acts Referred:

Citation : (2009) 01 JH CK 0131

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—The petitioner was appointed as Block Statistical Supervisor on 1.12.1966. Subsequently, he was posted as Statistician in August, 1982 in the office of the District Rural Development Agency, Hazaribagh. In course of time, he was posted as Assistant Statistical Officer in the year 1998 in the office of the District Statistical Officer, Hazaribagh. On completion of ten years of service, first time bound promotion was given to him in the scale of Rs. 880-35-1510/- with effect from 1.4.1981 under order No. 24 dated 24.2.1987 issued by the Directorate of Statistics. In course of time, second time bound promotion was also given to him in the scale of Rs. 2000-3800/- with effect from 1.12.1991 under order as contained in letter No. 2250 dated 30.9.1995 issued by the Directorate of Statistics. Thereafter under an order bearing No. 366 dated 23.5.1996 issued by the Directorate of Statistics, Government of Bihar the petitioner was promoted to the post of Assistant Statistical Officer (Junior Selection Grade) in the lower scale of Rs. 1800-3330/- with effect from 1.3.1994, though he had earlier been given time bound promotion in the scale of Rs. 2000-3800/- which amounts to reduction in the pay. Consequently, petitioner's pay was fixed in the replacement scale of Rs. 5500-9000/- whereas his pay should have been fixed in the replacement scale of Rs. 6500-10500/- which corresponds to the old scale of Rs. 2000-3800/-. The petitioner got retired on 30.9.2004 and the provisional pension has been fixed in the scale of Rs. 5500-9000/-, though, in the facts and circumstances, he was entitled to the scale of Rs. 6500-10500/- and accordingly, the provisional pension should have been fixed in the said scale and under this situation, this writ application has

been filed praying therein to direct the respondent to pay arrears of salary in the scale of Rs. 6500-10500/- with effect from 1.1.1996 or alternatively to grant second A.C.P in the scale of Rs. 6500-10500/- with effect from 1999 and to pay arrears of salary and other allowances till the date of superannuation.

2. A counter affidavit has been filed on behalf of the State of Bihar wherein it has been admitted that the petitioner was given first time bound promotion and then second time bound promotion in the scale of Rs. 2000-3800/- with effect from 1.12.1991. Subsequently, the petitioner was promoted as Assistant Statistical Officer in Junior Selection Grade in the pay scale of Rs. 1800-3330/- with effect from 1.3.1994 under order No. 366 dated 23.5.1996 (Annexure 3) and accordingly, his revised pay was fixed in the scale of Rs. 5500-9000/- with effect from 1.3.1996 and that the petitioner is not entitled to pay scale of Rs. 6500-10,500/- as that scale is admissible to the person of the cadre of Assistant Director/District Statistical Officer, whereas the petitioner is in the cadre of Assistant Statistical Officer. Similar is the statement made in the counter affidavit filed on behalf of the State of Jharkhand wherein it has been stated that the first time bound promotion was given to the petitioner in the scale of Rs. 880-1510/- and the second time bound promotion was given in the scale of Rs. 2000-3800/-. However, it has been stated that regular promotion was given to the petitioner to the post of Assistant Statistical Officer (Junior Selection Grade) in the pay scale of Rs. 1800-3300/- with effect from 1.3.1994. Revised pay scale has been fixed in the pay scale of Rs. 5500-9000/- and that the petitioner is not entitled to second time bound promotion. However, it has been stated that the case of the petitioner for grant of second A.C.P is under consideration.

3. Having heard learned Counsel appearing for the parties and taking into consideration the pleadings of the parties, it does appear that it has not been denied that the petitioner was getting pay in the scale of Rs. 2000-3800/- on being given second time bound promotion but when the petitioner was given regular promotion to the post of Assistant Statistical Officer (Junior Selection Grade) with effect from 1.3.1994, his pay was fixed in the scale of Rs. 1800-3300/- and that the petitioner seems to have went on drawing salary in the same scale without raising any objection regarding reduction in the pay scale and when the pay scale was revised in the scale of Rs. 5500-9000/-, the same was also accepted but when the provisional pension was fixed in the same pay scale, objection is being raised about reduction in pay. However, alternatively the prayer has also been made to direct the authorities to grant the petitioner second A.C.P which according to the statement made in the counter affidavit filed on behalf of the State of Jharkhand is under consideration.

4. Under this situation, this writ application is disposed of with a direction to the Director, Department of Statistics, Government of Jharkhand, respondent No. 4 to take decision in the matter of grant of second A.C.P to the petitioner within a period of two months from the date of receipt/production of a copy of this order and if the petitioner is found entitled to have 2nd A.C.P then do the needful in

the matter of fixation of pension on revised scale.