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**(2007) 09 PAT CK 0075**  
**In the Patna High Court**

Sita Ram Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 12-09-2007

**Acts Referred:**

**Citation :** (2008) 1 PLJR 5

**Hon'ble Judges :** Barin Ghosh, J

**Bench :** Single Bench

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## **Judgement**

Barin Ghosh, J.—After having had worked for nine years with the Union of India the petitioner became an employee of the State of Bihar. Inasmuch as the petitioner had worked for nine years with the Union of India and inasmuch as the appointment by the State Government was not a new appointment but a continuation of the appointment as was given by the Union of India. the petitioner, in law, became entitled to increments that he had already earned while working with the Union of India Prior to the date he became an employee of the State of Bihar the having had already earned nine increments, his salary payable by the State of Bihar in the scale agreed to was fixed by adding nine increments. This was done in terms of a decision taken by the State of Bihar by a resolution bearing No. 1062 dated 12th June, "976. The said resolution provided that the petitioner is entitled to the pay scale of Rs. 387-600/-. Though the petitioner became an employee of the State of Bihar on 1st September, 1973. having regard to the said resolution dated 12th June, 1976, after having had given nine increments in the scale of Rs. 387-600/- the salary of the petitioner payable on 1st September, 1973 was fixed at Rs. 510/-

2. By a letter bearing Memo No. 724 dated 25th November, 1995, the Deputy Secretary, Bihar Government, Art, Culture and Youth Department informed the Accountant General, Bihar that the people as that of the petitioner, i.e. whose original appointment in the Union of India continued with the State of Bihar, shall be entitled to the pay scale of Rs. 387-600/- but not nine increments from 25th November. 1995. Before the petitioner retired] this decision dated 25th

November, 1995 was not implemented. The petitioner was adjusted in the revised scale with effect from 1st January, 1996 upon taking into consideration those nine increments he had for having had served the Central Government. When the petitioner claimed pension, it was purported to be contended that the petitioner from 1st of September, 1973 became disentitled to any of those nine increments; despite a letter of the said Deputy Secretary dated 25th [November, 1995 does not say so. On the basis thereof the pay of the petitioner was refixed and it was held out that the petitioner has overdrawn a large sum of money.

3. The petitioner was not appointed by the State of Bihar. His appointment by the Central Government was taken over by the State of Bihar. The appointment as was given to the petitioner by the Central Government continued in the State Government. Whatever the petitioner earned by reason of serving the Central Government, the petitioner became entitled to receive while serving the State Government. Being alive of the responsibility of the State Government in that regard, by a resolution dated 12th June, 1976. while the petitioner was accorded the scale of Rs. 387-600/- he was also accorded nine increments in the said scale. A Deputy i Secretary of the State Government, twenty years later, could not in any manner interfere with the said decision of the Government which had been acted upon for twenty years in the meantime. In any event even the said letter of the Deputy Secretary dated ,25th November, 1995 did not "\ obliterate the increments from the date the petitioner came to serve the State of Bihar. | The letter dated 25th November, 1995 made the decision contained therein prospective. Despite that the manner in which the authorities have acted, as narrated above, is astounding. This amply demonstrates that the Officers engaged by the State Government to look into these aspects are totally incompetent or oblivious of their obligations towards the employees of the State.

4. Be that as it may, not only a Deputy Secretary to the State Government, even the State Government after having had accorded consciously a pay to a Government employee for twenty years cannot withdraw the same without any just reason but on the basis of ipse dixit. The letter dated 25th November, 1995 does not record any reason why those nine increments should not be given to the petitioner or to people similarly situate to that of the petitioner. No prudent person on the basis of the said letter dated 25th November. 1995 Could act specially while discharging the duties of the State Government towards its employees.

5. In those circumstances the Writ Petition is allowed and it is declared that the petitioner, as entitled to, was is validly granted the pay scale of Rs. 387 -600/- with nine increments at Rs. 510/- on 1s: September, 1973, as appears from the reconstructed service records of the petitioner as produced in Court and his entitlement on the basis thereof should follow suit ignoring totally the said letter of (the Deputy Secretary dated 25th November, 1995 and accordingly, it is declared that there had been no overdrawal by the petitioner of even a single paisa.

6. Let the last pay of the petitioner be fixed on the basis of the above declaration and on the basis thereof the terminal and pensionary dues of the petitioner be fixed within a period of one month from today and within a month therefrom such dues together with five percent interest be paid to the petitioner. It is made clear that in the event any sum has been paid to the petitioner on such account, no interest is required to be paid there of.

7. The petitioner has been granted First and Second Time Bound Promotions by a letter dated 27th February, 2007 with affect from 1st April, 1981 and 11th December, 1988 respectively. There is no dispute that the petitioner was entitled to the pay scale of Rs. 387-600/- with effect from 1st September, 1973. In such view of the matter the petitioner was in the replaced pay scale of Rs. 850-1360/- immediately prior to introduction of a revision of pay scale effected from 1st January. 1986 and as such became entitled to the pay scale of Rs. 1500-2750/- with effect from 1st January, 1986. The said pay scale was revise with effect from 1st January. 1996 to Rs. 5000-8000/-. These are borne out from the Service Book of the petitioner.

8. Having regard to what has been stated above the pay scale fixed while granting First as well as Second Time Bound Promotions are unjust and incorrect. In such view of the matter fixation of the pay scales for the First and Second Time Bound Promotions, as mentioned in the said letter dated 27th February, 2007, is quashed but the entitlement of the petitioner to receive such promotions from the dates as mentioned in the said letter is not.

9. Within the time. as mentioned above, the respondents are directed to fix the correct pay scale for those promotions taking into account the pay scales to which the petitioner was entitled to and communicate the same to the petitioner.

10. It goes without saving that the arrears on account of grant of such promotions should also reach the petitioner within the time, as mentioned above. and in addition to that while fixing the last pay of the petitioner, the upward revision of the pay scale by reason of such Time Bound Promotions shall also be taken note of.

11. This disposes of the writ Petition.

12. It is made clear that I have not gone into the dispute pertaining to the claim of the petitioner on account of GPF inasmuch as particulars thereof have been furnished in the rejoinder. In such view of the matter it shall be open to the petitioner to reagitate his claim in respect thereof in accordance with law.