
(2008) 09 PAT CK 0143
In the Patna High Court

Siya Ram Singh

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 18-09-2008

Acts Referred:

Citation : (2009) 2 PLJR 956

Hon'ble Judges : Ajay Kumar Tripathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

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

Petitioner is aggrieved because his pension has been fixed in terms of annexure-15 at a much lower scale than at which he was entitled to by virtue of his pay fixation made earlier. Petitioner's case is that he was granted pay scale of Rs. 5,530-11,020/- based on a calculation and office order issued by the respondents Electricity Board in terms of annexure-10 dated 30.10.2003. The above position also came to be certified in the order dated 27.4.2006 issued by the concerned authority as would be evident from annexure-14. In terms of annexure-14 the last pay which the petitioner was allowed to draw was Rs. 11,020/-.

2. The Court notes the submission of the petitioner that way back 30.6.1973 he was granted three advance increments by way of reward for honesty and dedication to the Board shown at a time in question. This benefit granted to the employee of the time was carried by the petitioner on all the subsequent post when the promotions came to be conferred upon him. There is evidence on record that when the issue was raised on the pay scale and entitlement of the petitioner by virtue of the three advance increments given to him in the year, 1973, the matter came to be clarified and settled in terms of the order contained in annexure-8. The above decision as already noticed above came to be settled by the Board by a subsequent notification dated 30. 1.2003 contained in

annexure-10 followed by office order dated 27.4.2006 which is contained in annexure-14 to the writ application.

3. The respondents in their counter affidavit have annexed a hand noted working which is supposed to be calculation made by the Audit while calculating the pay scale of the petitioner. It is the basis on which the petitioner's pension has been fixed at a lower scale and he apprehends that even recovery will be made on the said working or objection of the audit. The respondents do not deny that the petitioner was granted three advance increments for exemplary work at the relevant time but they take a stand that there is mistake with regard to the actual calculation in this regard.

4. In a normal course of things the Court may have gone along with the audit objection if it was stand alone material on the issue. But keeping in mind that the entitlement of the petitioner with regard to pay scale to which he was entitled to has been put on scrutiny at various stages and categorical decisions have been taken in favour of the petitioner as recently in 2003 and 2006 then in absence of any cogent explanation in the counter affidavit with regard those decisions the Court cannot permit an audit objection of the kind to come in the way of the claim of the petitioner.

5. This writ application of the petitioner is allowed and a direction is issued upon the respondents that they shall re-fix his pension and deliver the emolument in the light of the decision contained both in annexure-10 as well as annexure-14 which is available on record. The correction in the pension paper of the petitioner shall be made and the consequential payment would be paid to him within a period of three months from the date of communication or production of a copy of this order.

This writ application stands allowed.