
(2002) 07 JH CK 0083
In the Jharkhand High Court
Case No : L.P.A. No. 268 of 1998 (R)

State of Bihar and Others

APPELLANT

Vs

Premlata Verma

RESPONDENT

Date of Decision : 04-07-2002

Acts Referred:

Citation : (2002) 07 JH CK 0083

Hon'ble Judges : M.Y. Eqbal, J; Hari Shankar Prasad, J

Bench : Division Bench

Advocate : Rajiv Ranjan Mishra and Mukesh Kumar, for the Appellant; A. Allam and Nehala Sharmin, for the Respondent

Final Decision : Allowed

Judgement

1. Heard counsel for the appellant. None appears on behalf of the respondent.
2. This appeal under Clause 10 of the Letters Patent is directed against the judgment dated 12.05.1998 passed in C.W.J.C. No. 3554 of 1998 (R) whereby the learned single Judge disposed of the writ application holding that the appellant-State of Bihar had no right to reduce the pay scale which was given to the writ petitioner-respondent in the pay scale of Rs. 1200-1800.
3. The respondent Prem Lata Verma wife of late Raj Kumar Verma was appointed as a Bill Clerk on 14.11.1991 on compassionate ground. In the appointment letter, the pay scale of the Bill Clerk was mentioned as Rs. 1200-30-1800. The respondent was paid salary on the basis of the said scale till 1997. However, in 1998 it was directed that the scale of pay was wrongly mentioned in the appointment letter inasmuch as scale of pay of the Bill Clerk is Rs. 975-1540. The authorities of the appellant accordingly informed the respondent about the mistake occurred in the appointment letter and the scale of pay was reduced to Rs. 975-1540 which was the scale of pay of a Bill Clerk. The petitioner challenged the said order by filing the aforementioned writ petition and the learned single Judge took the view that when the scale of pay was given to the respondent by

mistake then it was for the authorities of the appellant to prove that scale of pay was given by mistake or due to inadvertence. The learned single Judge further held that the pay scale of the correspondence clerk of the Industry Department is Rs. 1200-1800 and therefore the deduction of pay scale of the respondent was illegal and without jurisdiction.

4. From perusal of the record of the CWJC No. 2354 of 1997 it appears that respondent (writ petitioner) has not claimed that the pay scale of the Bill Clerk is 1200-1800 rather the case of the petitioner was that there are other posts on scale of Rs. 1200-1800 and the eligible criteria for appointment in the said posts are the same as that of a Bill Clerk and further that the petitioner was having requisite qualification for appointment in the pay scale of Rs. 1200-1800, therefore, the impugned letter reducing/correcting the pay scale of the petitioner was not justified. On the other hand, the respondents, inter alia, have annexed the Government circular of the year 1991 and annual sanction order duly approved by the Finance Department, Government of Bihar, along with counter-affidavit which clearly shows that the scale of pay of a Bill Clerk is in the scale of Rs. 975-1540. We are, therefore, of the view that the learned single Judge has not correctly appreciated the case of the appellant made in the counter-affidavit and the documents annexed therewith. As noticed above, the petitioner has not disputed the fact that the pay scale of a Bill Clerk is Rs. 975-1540 rather her case is that the pay scale of corresponding clerk etc. having similar nature of work, is Rs. 1200-1800 and, therefore, the petitioner was rightly given the pay scale of Rs. 1200-1800. In absence of any specific claim made by the petitioner in the writ petition, we are, therefore, of the view that the judgment passed by the learned single Judge is not in accordance with law.

5. This appeal is therefore allowed and the impugned judgment passed by the learned single Judge is set aside. Consequently the writ petition filed by the petitioner is dismissed, holding that by mistake, the petitioner was given the pay scale as shown as Rs. 1200-1800 in the appointment letter, dated 14.11.1991. However, we further hold that whatever amount has been paid to the respondent from the date of appointment till the date of correction of the scale of pay shall not be recovered from the respondent.