

(2008) 09 PAT CK 0152
In the Patna High Court
Case No : CWJC No. 11141 of 2003

Tribhuwan Roy

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-09-2008

Acts Referred:

Citation : (2009) 2 PLJR 114

Hon'ble Judges : J.N. Singh, J

Bench : Single Bench

Advocate : Rupak Kumar, Nishant Kumar and Mukesh Kumar Sinha, for the Appellant; R.K. Choubey and J.P. Karn, for the Respondent

Judgement

J.N. Singh, J.—The grievance of the petitioner in this case boils down to his demand for replacement pay scale of Rs. 4500-7000 as a consequence of revision of his pay scale with effect from 1.1.1996 as per the 6th Pay Revision Committee Report. The said demand of the petitioner is solely on the ground that one Ram Charitra Mahto, who was also Senior Mechanic Grade-I in the Department of Road Construction was granted with replacement scale vide Annexure-9. From Annexure-9 it appears that Ram Charitra Mahto was in pre-revised scale of Rs. 1400-2600 which was revised to Rs. 4500-7000. Learned counsel for the petitioner submits that the petitioner was also holding the post of Senior Mechanic Grade-I in the Road Construction Department. He was also in the pre-revised pay scale of Rs. 1400-2600. Therefore, his case was identical to Ram Charitra Mahto as mentioned in paragraph-23 to the writ petition. Therefore, he also ought to have been given the revised scale of Rs. 4500-7000. The petitioner has also cited one more example of Ram Niwas Singh in paragraph-23 itself, who was also given same revised pay scale i.e. Rs. 4500-7000 in identical situation.

2. A counter affidavit has been filed in this case but there is no denial in the counter affidavit with regard to grant of revised pay scale of Rs. 4500-7000 to those two persons. The only averment which has been made in the counter

affidavit in respect of pleading in paragraph-23 of the writ petition is that said Ram Charitra Mahto was in different division.

3. Being posted in different division cannot make the incumbent liable for differentiation in revision of pay scale, specially when it is not denied that said Ram Charitra Mahto and Ram Niwas Singh also worked as Senior Mechanic Grade-I under Road Construction Department, who were earlier in pre-revised scale of Rs. 14002600. If upon revision of that pay scale they were put in the revised pay scale of Rs. 4500-7000, there cannot be any justifiable reason for placing the petitioner in the lower revised pay scale of Rs. 4000- 6000.

4. Since there is no explanation for the same by the respondents in the counter affidavit, it would be proper that the matter be remitted back to the authority for consideration of the claim of the petitioner for grant of revised pay scale to him of Rs. 4500-7000 as granted to Ram Charitra Mahto and Ram Niwas Singh. The respondents shall examine the case of those two persons also and if they find that there is no distinguishable feature and the said two persons have been granted that scale and they have continued with the same and if retired in that scale they shall be well advised to pass similar order in respect of the petitioner also. In case orders are passed for correction of the pay scale of the petitioner from Rs. 4000-6000 to Rs. 4500-7000, his all pensionary benefits shall be revised accordingly. Arrears on account of different of salary and arrears of pensionary benefits of the petitioner on account of grant of said pay scale to the petitioner shall be paid with statutory interest as applicable by law or under the orders of the Government within a period of three months from the date of receipt/production of a copy of this order. With the above observations and directions, the writ petition is disposed of.