

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6028 of 2020

Hirdaya Nand Tiwari Son of Late Dhanush Tiwari Resident of Village Ashok
Pakari P.S.- Pipra, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary Finance Department Bihar, Patna.
2. The Principal Secretary Minor Irrigation Department, Bihar, Patna.
3. The Engineer in Chief Minor Irrigation Department, Bihar, Patna.
4. The Co- Ordinator-cum- Chief Engineer Tubewell Project Muzaffarpur.
5. The Executive Engineer Tube Well Division, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Advocate
For the Respondent/s : Mr. Durgesh Nandan (AAG 14)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-12-2021

In the instant petition, petitioner has prayed for the following reliefs:-

“A(i) For issuance of writ in the nature of certiorari to Order dated 19-09-2019 contain in memo No. 7674 issued under the signature of Principal Secretary Finance Department partly by which it is the pay scale of the petitioner is fixed as 3050-4590 since 1996 in place of 4000-6000 and to revise the pension order accordingly

B.(A) (I) To orders under challenge hold that the are without jurisdiction.

(II) To hold that the orders impugned in the teeth of decision of the



*State Government contained in Annexure-
"A" to to the petition.*

*(III) To hold the petitioner is
entitled to get pay scale 4000-6000 since 1-
1- 1996.*

*(IV). To pay up to date penal
interest on the on due amount of the
petitioner.*

*C. To any other relief/s for which
the petitioner is found entitled to."*

The petitioner was appointed as an Electrician in the Tube-well Department. Initially, he was extended the pay-scale of Rs. 1200-1800 as is evident from Annexure-7. Extract of the service register to the post of Electrician in the Tube-well Department carries two types of pay-scale, i.e., under work-charge establishment and in the regular establishment. Pay-scale was revised from time to time. In the year 1996, the post of Electrician was revised among other posts. In Annexure-7, Item No. 85 relates to Electrician and 92 is also Electrician with pay-scale of Rs. 950-1400 to Rs. 3050-4590 and Rs. 1200-1800 to Rs. 4000-6000 respectively. The petitioner was extended benefit of Rs. 4000-6000, thereafter, the Department noticed that such extension of pay-scale of Rs. 4000-6000 by the petitioner in the year 1996 with reference to revised pay-scale as on 01.01.1996 was incorrect. In the result, an order was passed for re-fixation of pay and order for



recovery and it was subject matter of litigation before this Court in CWJC No. 10325 of 2012 and it was decided on 08.03.2019 in favour of the petitioner reserving liberty to the official respondents to proceed in accordance with law. Thus, the impugned order dated 19.09.2019 has been passed re-fixing the petitioner's pay w.e.f. 01.01.1996 in the pay-scale of Rs. 3050-4590.

Learned counsel for the petitioner submitted that petitioner was initially extended the pay-scale of Rs. 1200-1800 for the Electrician Post. Petitioner was given corresponding revised pay-scale from time to time. As on 01.01.1996, the Electrician post carries the pay-scale of Rs. 1200-1800 as has been revised to Rs. 4000-6000, therefore, the concerned respondent's decision dated 19.09.2019 is not with reference to the service record in which petitioner's pay-scale has been mentioned as Rs. 1200-1800 at the time of appointment to the post of Electrician. Hence, the impugned order dated 19.09.2019 is liable to be set aside and petitioner be extended the benefit of pay-scale of Rs. 4000-6000 that is revised on 01.01.1996 and he is entitled to consequential benefits.

Per contra, learned counsel for the respondent-State resisted the aforesaid contention of the petitioner and submitted that in the Tube-well Department there were two Establishment



namely work charge establishment and regular charge establishment. The pay-scale for work charge was Rs. 950-1400 and in the regular charge Rs. 1200-1800. Petitioner was appointed in the work charge and, therefore, he is entitled to pay-scale of Rs. 950-1400 and corresponding revised pay-scale of Rs. 3050-4590 in terms of revised pay-scale w.e.f. 01.01.1996, therefor, there is no infirmity in the order dated 19.09.2019 (Annexure-11).

Heard learned counsels for respective parties.

Undisputed facts are that petitioner was a holder of the post of Electrician. He was initially appointed against Electrician post in the pay-scale of Rs. 1200-1800 as is evident from Annexure-1 extract of service register. The State Government revised pay-scale from time to time. As on 01.01.1996 there are two types of posts of Electrician one carries pay-scale of Rs. 975-1540 and it was revised to Rs. 3050-4590 and other post of Electrician Rs. 1200-1800 to Rs. 4000-6000 revised pay-scale at Sl. No. 85 and 92 read with Annexure-7. The respondents are of the view that petitioner has been extended revised pay-scale Rs. 4000-6000 was not in accordance with law. Initially, appointment to the post of Electrician and it was subject matter of litigation before this Court in CWJC No. 10325 of 2017 and decided on 08.03.2019. Pursuant to the aforesaid order of this Court,



respondents have passed the order dated 19.09.2019 confirming that the petitioner is entitled to revised pay-scale in the post of Electrician at Rs. 3050-4590. The State counsel has not apprised this Court with material information that the petitioner was initially appointed to the post of Electrician at pay-scale of Rs. 975-1540 and that the petitioner is entitled to revised pay-scale of Rs. 3050-4590 as on 01.01.1996.

Learned counsel for the petitioner pointed out from Annexure-1 extract of the service register which reveals that petitioner was appointed to the post of Electrician in the pay-scale of Rs. 1200-1800. Thus, the pay-scale of Rs. 1200-1800 corresponding revised pay-scale as on 01.01.1996 of Electrician is Rs. 4000-6000 and not Rs. 3050-4590.

Learned State counsel submitted that there are two wings, i.e., work charge and regular charge and petitioner was appointed in work charge and it is not supported by any material information.

The service register suffice to show that the petitioner was appointed in the pay-scale of Rs. 1200-1800.

In the light of these facts and circumstances, the petitioner has made out a case. Accordingly, impugned order dated 19.09.2019 (Annexure-11) stands set aside. Petitioner is entitled to



revised pay-scale of Rs. 4000-6000 as on 01.01.1996 in the Electrician Cadre, the same shall be extended. If the petitioner is entitled for arrears of pay and revision of pension, the same shall be calculated and disbursed to the petitioner within a period of three months from the date of receipt of this order.

Accordingly, the present petition stands allowed with a cost of Rs. 10,000/- which shall be paid to the petitioner by the respondents.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

