

Civil Writ Jurisdiction Case No.719 of 2000

1. Surendra Kumar Bhaskar son of late Awtar Krishna Bhaskar, resident of L.F. 15, Mohalla and Police Station- Shrikrishnapuri, Boring Road, Patna Town and District- Patna.
2. Shamim Ahmad son of late Syed Abdul Majid, resident of Village and P.O. - Amarath, P.S. and District Jamui, presently residing at Bhartiya Tent House, Dargah Road, Pathar Ki Masjid, P.S.- Sultanganj, Town and District Patna.
3. Rajendra Rajak Son of Sri Basudeo Rajak, resident of Mohalla Mahavir Nagar (Hanuman Nagar), P.O. Lohianagar, P.S.- Kankarbag, Town and District- Patna.
4. Kapil Deo Thakur, son of late Banke Bihari Thakur, resident of new Bigrampur, P.S.- Jakkanpur, presently residing at C/o the Superintendent, S.W.C. Durgabari Road, Gaya.
5. Ramrup Babidas, son of late Ram Kishun Rabidas, resident of at and P.O. Baldha, P.S.- Nagarnausa, District- Nalanda, presently residing at Bihar State Text Book Sales Centre, Prabhat Colony, Bhootnath Mandir, Purnea.

Versus

1. The Bihar State Text Book Publishing Corporation Limited, Budha Marg, Patna-1 through its Managing Director.
2. The Managing Director, Bihar State Text Book Publishing Corporation Limited, Budha Marg, Patna-1.
3. The Manager, Personnel and Administrative, Bihar State Text Book Publishing Corporation Limited , Budha Marg, Patna-1
4. The Personnel Officer, Bihar State Text Book Publishing Corporation Limited , Budha Marg, Patna-1
5. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
6. The Finance Commissioner, Government of Bihar, Patna.
7. The Bureau of Public Enterprises, Government of Bihar through its Chairman.
8. The Additional Secretary, Finance Bureau of Public Enterprises Department, Government of Bihar, Patna.
9. The Director, Primary Education, Government of Bihar, Patna.

Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Advocate.
Mr. Dhrendra Kumar, Advocate.

For the Respondent/s: Mr. M.K.Sinha, SC 1.
Mr. S.K.Karn, AC to SC 1.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 01-04-2015

Heard learned counsel for the parties.

2. When this writ application was filed on 20.01.2000, the

petitioners had a different grievance altogether inasmuch as the relief sought at that point of time had read as follows:

"1. for commanding the respondents to grant and pay to the petitioners, who are all Store Assistants in the respondent no. 1 Corporation, the replacement pay scale of Rs. 1500-2750 in terms of the recommendation of the 5th Pay Revision Committee with effect from appropriate date instead of Rs. 1400-2300, which the petitioners were granted and time bound pay scale of Rs. 1640-2900 instead of Rs. 1400-2300, which has been granted to the petitioners with further direction to the respondents to pay the balance amount of salary due to the petitioners with suitable amount of compound interest and to further ensure that subsequent replacement scales are correctly given to the petitioners and for grant of any other incidental, consequential and other appropriate relief or reliefs, to which the petitioners may be found entitled."

3. In course of time, it is the petitioners who have brought on record a decision of the Bihar State Text Book Publishing Corporation Limited, (hereinafter referred to as 'the Corporation') contained in office order dated 02.08.2002 wherein the pay scale of the post of Store Assistant has been revised to the satisfaction of the petitioners but they have now a grievance, as specifically raised in I.A. No. 3794 of 2002 ,that such revision notifying on 02.08.2002 should have been given with retrospective effect and to that extent, it would be relevant to quote Para 3, 4 and 5 of the interlocutory application, which reads as follows:

"3. That during the pendency of this writ application the respondents realizing their mistake have corrected the wrong/anomaly by granting Fifty Pay Revision Committee Replacement Scale of Rs. 1500/- to 2750/- even to the Store Assistants on which post the petitioners are working by order as contained in letter no. 2508 dated 2.8.2002 issued under the signature of the Managing Director of the Bihar State Text Books Publishing Corporation Ltd. (Respondent No. 2) upon recommendation of the controlling Department and after approval from the Finance Department (Bureau of Public Enterprises) it ahs been decided to grant the Fifty Pay Revision Committee Replacement Scale of Rs. 1500/-- 2750/- to Store Assistants. However, the financial benefits of such rectification has been ordered to be given to the petitioners only with effect from 20.07.2002. It has however been mentioned in the said order that notional benefit of

such pay fixation would be granted with effect from the date of the enforcement of the Fifth Pay Revision Committee Recommendation.

4. That it is respectfully stated and submitted that denying financial benefits to the petitioners and other similarly situated persons after rectification of mistake by removing the pay anomaly is unreasonable, irrational and unjustified and violative of Article 14 of the Constitution of India. Once, the respondents have made corrections, they are liable and duty bound to give the consequential benefits of such rectification.

5. That in this situation, the petitioners pray that that portion of Annexure 9 may kindly be quashed where by the financial benefit of correction of Fifth Pay Revision Committee Pay scale has been ordered to be given to the petitioners with effect from 20.7.2002. The petitioners further pray that the respondents may kindly be directed to pay the balance amount of salary due to the petitioners with effect from 1.1.86 on account of correction of their pay scale within sometime frame to be fixed by his Hon'ble Court."

4. Since, this aspect of the matter was never addressed by the respondents and this Court is also not aware as to whether the petitioners are still in service of the Corporation, this Court, for the time being, without deciding the issue of retrospectivity of the pay scale in question, would only give liberty to the petitioners to approach the competent authority of the Corporation to raise their grievance for giving benefit of the revised pay scale as per the office order dated 02.08.2002 with effect from 01.01.1986.

5. This Court hopes and believes that if such a representation is filed by the petitioners, the authorities of the Corporation will take into consideration that if other employees of the Corporation were given the benefit of the revised pay scale with effect from 01.01.1986, could the petitioners, holding the posting of Store Assistant, be discriminated in the matter of grant of appropriate pay scale by giving them the revised pay scale only with effect from the date of the order.

6. This Court, however, hasten to add that if for any justifiable reason such pay scale to the petitioners has to be given only prospective effect

from the date of the office order dated 02.08.2002, reasons thereof must be communicated to the petitioners within a period of four months from the date of filing of the representation by the petitioners.

7. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

U			
---	--	--	--