

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7476 of 1999

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1. Sinchai Yantrik Nirmanshala Mazdoor Sangh, Dehri-on-Sone (Rohtas), a registered Trade Union bearing Registration No. 2046 having its registered office at Sinchai Mazdoor, New Colony, Dehri-on-Sone, through its Secretary, Bhagwan Dubey, Son of late Vishwanath Dubey, resident of Village-Durgapur, P.S.-Nawada, District-Rohtas.
2. Bhagwan Dubey, Son of late Vishwanath Dubey, resident of Village-Durgapur, P.S.-Nawada, District-Rohtas, Secretary, Sinchai Yantrik Nirmanshala Mazdoor Sangh, Dehri-on-Sone.

.... **Petitioner/s**

Versus

1. The State of Bihar, through the Secretary-cum-Commissioner, Water Resources Department, Government of Bihar, Patna.
2. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Commissioner-cum-Secretary, Finance Department, Government of Bihar, Patna.
5. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna.
6. The Chief Engineer, Water Resources Department, Government of Bihar, Patna.
7. The Superintendent Engineer, Irrigation Mechanical Circle, Mithapur, Patna.
8. The Executive Engineer, Irrigation Mechanical Division, Dehri-on-Sone, District-Rohtas.
9. The Special Secretary, Water Resources Department (Irrigation), Government of Bihar, Patna.

.... **Respondent/s**

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Appearance :

For the Petitioner/s : None

For the Respondent-State : Mr. Jainendra Kumar Sinha, Advocate (AC to GA-6)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 28-04-2015

There is no representation on behalf of the petitioners. On the last occasion, i.e., on 19.10.2011 also, upon call, there was none to represent the petitioners. Learned counsel for the State is present.

2. The petitioners are aggrieved by an order dated 14.07.1999 issued under the signature of the Special Secretary, Water Resources Department (Irrigation), Government of Bihar, Patna, whereby, their representation filed before the respondents, in the light of composite order of this Court dated 06.05.1999 passed in C.W.J.C. No. 9048 of 1998 (Ismile Ansari & Ors. Vs. The State of Bihar & Ors.) and C.W.J.C. No. 10197 of 1998 (Sinchai Yantrik, Nirmanchali Majdoor Sangh Vs. The State of Bihar & Ors.), respectively, has been rejected. The said writ applications were filed challenging an earlier order dated 25.05.1998, whereby, the replacement/revised scale granted to the petitioners earlier vide orders dated 30.09.1995 and 24.07.1997,

respectively, were cancelled.

3. It further appears from the records that the petitioners and other similarly situated persons had represented their case before the authorities for grant of higher revised pay-scale and accordingly they were granted such scale by the orders dated 30.09.1995 and 24.07.1997, respectively. It further appears that the petitioners, at the relevant point of time, were holding the post of Fitter, Turner, Black Smith and Welder. They were placed in the scale of Rs. 85/ to 110/- and upon their representation, the same had been revised up to scale of Rs. 240/ to 396/- by the orders passed by the authorities dated 30.09.1995 and 24.07.1997, respectively, which was subsequently cancelled by an order dated 25.05.1998 against which they had approached this Court by filing the aforementioned writ applications, bearing C.W.J.C. No. 9048 of 1998 and C.W.J.C. No. 10197 of 1998 (Supra). Noticing the fact that prior to cancellation of the earlier enhancement in pay-scale granted to the petitioners, they were not given any opportunity of representation or being heard, this Court while quashing



the said order dated 25.05.1998, allowed the petitioners to file a representation before the Special Secretary, Water Resources Department within five weeks and the authority in turn was directed to dispose of the representation within a period of two months. According, upon such representation the order impugned has been passed.

4. On perusal of the impugned order, I find that the respondent no. 9, the Special Secretary, Water Resources Department, Government of Bihar, Patna, after considering the representations filed by the petitioners has assigned reasons, as to why the stand taken by the petitioners were not acceptable.

5. It has been stated in a counter affidavit filed on behalf of the respondents that the technical staff, who were in pay-scale of Rs. 150/- to 200/- or Rs. 115/- to 225/- before 01.01.1971 were granted the pay-scale of Rs. 240/- to 396/- from 01.01.1971 and those who were in the pay-scale of Rs. 105/- to 115/- before 01.01.1971, were granted the pay-scale of Rs. 220/- to 315/- as per Order No. 15187 dated 03.09.1976 of the Water



Resources Department, Government of Bihar, Patna. It has further been stated that out of total 67 petitioners, only one petitioner, namely, Ramanand Prasad (Turner), was in the pay-scale of Rs. 105/- to 115/-. Accordingly, he was granted the pay-scale of Rs. 220/- to 315/-. It has further been stated that rest of the petitioners were in the pay-scale of Rs. 85/- to 110/- and accordingly the Finance Department granted them replacement pay-scale of Rs. 180/- to 242/- from 01.01.1971. It has specifically been averred in the counter affidavit that by misrepresenting, the petitioners got the pay-scale of Rs. 240/- to 396/- in 1996-97, with specific condition that if it was found wrong in future, re-fixation will be done accordingly and excess amount, so paid, shall be recovered. It is stated that the petitioners were entitled to get pay-scale of Rs. 180/- to 242/- being the replacement pay-scale of Rs. 85/- to 110/- and accordingly, taking these facts into account, the Special Secretary, Water Resources Department, Government of Bihar, Patna (respondent no. 9) passed the impugned order.

6. Fixation of pay-scale of an employee is

essentially an execute function. The Court interferes in such matters only if such fixation is found to be completely erroneous, arbitrary and without any basis. I do not find any unreasonableness or infirmity in the decision of the respondent no. 9 (Special Secretary, Water Resources Department, Government of Bihar, Patna) in passing the impugned order and requiring interference by this Court in the present proceeding under Article 226 of the Constitution of India.

7. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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