

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.755 of 2014

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1. Kedar Nath Singh S/O Late Deo Kumar Singh Resident Of Mohalla S.K. Nagar, M/37 Road No.- 26, P.O. Kidwaipuri, P.S. Budha Colony, District Patna
 2. Mahendra Pandey S/O Late Ram Lakhan Pandey Resident Of Village Choura (Suggi), P.O. Kasi Pakri, P.S. Tarhasi, District Palamu (Jharkhand)
 3. Shailendra Prasad Singh S/O Late Ram Balak Singh Resident Of Village And P.O. Bihat Ibrahimpur Tola, P.S. Barauni District Begusarai
 4. Indu Bhushan Tiwari S/O Late Radhey Shyam Tiwari Resident Of Mohalla Ram Nagri Sector-Iii, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 5. Arun Kumar Sinha S/O Late Ram Nandan Prasad Verma Resident Of Mohalla East Tej Pratap Nagar, Near Rajesh Petrol Pump, New By Pass Road, P.O. Anishabad, P.S. Beur, District Patna
 6. Sudhir Sinha S/O Late Dinesh Prasad Sinha Resident Of Village Anand Bihar, Near Brahampur, P.O. And P.S. Phulwarisharif, District Patna
 7. Devendra Nath Singh S/O Late Ram Pravesh Singh Resident Of Village And P.O. Gorainpur, P.S. Autar Nagar, District Chapra
 8. Ram Naresh Pandey S/O Late Bushawan Pandey Resident Of Village Chandra Bihar Colony, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 9. Prabhudayal Singh S/O Late Shankardayal Singh Resident Of Mohalla Sikchak Colony, Road No. 8, P.O. H. Housain Colony, Bahadurpur, P.S. Agamkuan, District Patna
 10. Ram Dayal Prasad S/O Late Mahichand Mahto Ranjan Niwas, Resident Of Mohalla Nazirpur, P.O. Shekhpur, P.S. Ahiyapur, District Muzaffarpur
 11. Chitrnanjan Sharma S/O Late Udeswar Sharma Resident Of Village Bargaon, P.O. + P.S. Koach, District Gaya
 12. Prabhu Nath Mishra S/O Late Ramdeo Mishra Resident Of Village + P.O. Bankatwa, P.S. Ghorasahan, District East Champaran
 13. Binoda Nand Jha S/O Late Rameshwar Jha Resident Of Mohalla Kishlay Manik Sarkar Ghat, P.O. Adampur, P.S. Adampur, District Bhagalpur
 14. Nand Kishor Singh S/O Late Harihar Singh Resident At Flat No. 5, Phase- I, Vipasa Apartment, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 15. Munidra Kumar S/O Late Baleshwar Sinha Resident Of Village Hirdya Chak, P.S. Hirdya Chak, P.S. Kaler, District Arwal
 16. Mithleshwar Prasad Singh S/O Late Lakhandip Narayan Singh Resident At Flat 303 Bindeshwar Inclave, Rudrapuri, Road No. 5, P.O. Kshri Nagar, P.S. Patliputra, District Patna
 17. Uday Shankar Mukherji S/O Late Dasrath Lal Mukarji Resident Of Village And P.O. Dumrawa, P.S. Amerpur, District Banka
 18. Hari Mohan Mishra S/O Sri Umesh Mishra Resident Of Village + P.O. Jaydeopati, P.S. Ghanshyampur, District Darbhanga
 19. Ashok Kumar S/O Late Styra Narayan Singh Resident Of Village Parsa, P.O. + P.S. Naubatpur, District Patna
 20. Anjani Kumar Sinha S/O Late S.N. Prasad Resident At J- 407, P.O. Patrakar Nagar, P.S. Kankarbag, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Home Department, Govt. Of Bihar, Old Secretariat, Patna
4. The Director General of Police, Bihar, Old Secretariat, Patna

5. The Additional Secretary, Finance Department, Govt. Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh

For the Respondent/s : Mr. Kumar Manish, SC 21

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28-09-2015

Heard counsel for the petitioners and counsel for the State.

The writ application has been filed for quashing Annexure-9, dated 7.8.2013 by virtue of which the Department of Finance, Government of Bihar has communicated to the Accountant General the pay scale, which will be available under the ACP scheme for holders of the post of ASI, SI and Deputy Superintendent of Police, after promotion.

When the first counter affidavit was filed on behalf of the State, the Court came to a considered opinion that the counter affidavit did not answer the questions raised in the writ application as well as in support of the impugned order and clarity was missing. They were directed to file a supplementary counter affidavit which they have done now.

A reading of the supplementary counter affidavit especially paragraph 7 onwards would indicate the history behind fixation of the various pay scales of the three different cadres and the origin as to their entitlement and recommendation

in terms of the Fitment Committee's recommendation.

These recommendations were acted upon and even in vogue since 1981. The fall out is part of the Fitment Committee's recommendation, which cannot be reopened and gone into especially when various committees' recommendation thereafter have also been adopted and implemented. The anomaly, which are there because of the recommendation of the Fitment Committee, was a conscious decision and the petitioners cannot wish it away now and this Court will not go into the issues because the settled position cannot be unsettled after more than three decades.

Even otherwise the Hon'ble Apex Court has opined in the case of *State of UP & others v. J.P.Chaurasia & others, reported in 1989 (1) SCC 121* and in the case of *State of Haryana & another v. Harayan Civil Secretariat Personal Staff Association, reported in 2002 (6) SCC 72* that in such matters Courts have no occasion to express its opinion or exercise any discretion.

Writ, therefore, is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

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