

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11440 of 2011

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1. Rakesh Kumar Son Of Late Sita Ram Prasad Resident Of Village/ PO-Manikpur, P.S. And District Gopalganj.
 2. Ajai Kumar Dwivedi Son Of Sri Chandradeo Dwivedi Resident Of Village/P.O. Hakam PS-Mohammadpur, District Gopalganj
 3. Bachcha Lal Singh Son Of Late Hari Shanker Singh Resident of Village Maghraicha P.O. & P.S.-Vardiha Parsuram, District - Deoria (U.P.)
 4. Vijay Bahadur Singh Son Of Late Kanchan Singh Resident Of Village-Bara Badhaya P.O. And P.S.-Barauli District Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administration Department Bihar Patna
3. The Collector Cum District Magistrate, Gopalganj
4. The Establishment Deputy Collector, Gopalganj Collectorate Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Tiwary

For the Respondent/s : AC to GP 16

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

6 10-03-2016 Heard Sri Arvind Kumar Tiwary, learned counsel for the petitioners and learned AC to GP No. 16.

Four petitioners invoking writ jurisdiction of this court under Article 226 of the Constitution of India, have prayed for directing the respondents to give them pay scale of Rs. 4000-6000/- instead of Rs. 3050 – 4500/- from the date of their appointment on promotion basis on Class III post in Gopalganj Collectorate.



It is the case of the petitioners that they were initially appointed as Class IV employees in the year 1984 . Thereafter, for filling up Class III post from Class IV post a limited competitive examination was held in which petitioners along with others appeared and finally a merit list was prepared in the year 1993 in which name of 24 persons were included including all the four petitioners. Despite the fact that selection process was already complete the respondents had not taken any step for issuance of appointment letter in respect of the petitioners and one other Sri Ravi Shankar Pandey. Being aggrieved, the petitioners along with others filed a writ petition in the year 1994 vide CWJC No. 2802 of 1994 which stood dismissed and thereafter an appeal was filed vide LPA No. 987 of 1995 which was allowed. Even after the order of the appellate court the respondents were not taking any step for issuance of appointment letter. Thereafter, finally, petitioners again filed a separate writ petition vide CWJC No. 11710 of 1999. However, during the pendency of the writ petition petitioners were appointed on promotion basis on Class III post. However, the petitioners were not provided pay scale of Rs. 4000 - 6000/-. Since during the pendency of the writ petition i.e. CWJC No. 11710 of 1999 relief regarding appointment on promotion against Class III post was already redressed, the writ



petition was dismissed as same had become infructuous. The petitioners had raised the plea regarding lesser pay scale. However, a bench of this court by order dated 1.3.2005 while dismissing the writ petition as infructuous observed that for pay scale petitioners may file representation before the authority concerned. It is the case of the petitioners that thereafter they filed representation before the authority concerned but no decision was taken. Thereafter, the petitioners were compelled to approach this court by filing the present writ petition.

Learned counsel for the petitioners submits that one Sri Ravi Shankar Pandey was also directed to be appointed on promotion basis on Class III post. He was also not given pay scale of Rs. 4000 - 6000/-. However subsequently Sri Ravi Shankar Pandey was granted pay scale of Rs. 4000 – 6000/-. Whereas the case of the petitioners has been discriminated and petitioners have not been given pay scale of Rs. 4000 - 6000/-. Learned counsel for the petitioners submits that once selection process had already been initiated in the year 1992 itself and only in view of said selection process appointment letter was issued belatedly in the year 2001 the petitioners may not be denied the scale of Rs. 4000-6000/-. It has been claimed that the pay scale which was applicable till the month of December 2000 was required to be



given to the petitioners. In support of his submission learned counsel for the petitioners has placed heavy reliance on a single bench judgment of this court reported in **2007(4) PLJR 78 (Satyendra Kumar & Anr. Vs. State of Bihar & Ors.)** and also on a division bench judgment of this court reported in **2010 (4) PLJR 65 (DB) (The State of Bihar vs. Sati Kant Mishra)** and as such a prayer has been made to direct the respondents to provide pay scale of Rs. 4000 – 6000/- instead of Rs. 3050 – 4500/- from the date of their appointment / promotion against Class III post and also pay the difference of salary.

In this case a counter affidavit has been filed on behalf of the respondents. Learned State Counsel has tried to distinguish the case of the petitioners with the case of Sri Ravi Shankar Pandey. He submits that since in the case of Sri Ravi Shankar Pandey in the year 2007 contempt petition was pending, under that circumstance, he has tried to distinguish the case of the petitioners from that of Sri Ravi Shankar Pandey. However, this fact has not been disputed that process for selection against Class III post from Class IV post was initiated in the year 1992 itself in which petitioners had participated and thereafter due to some reason or the other delay had occurred in issuance of appointment letter. In view of the fact that petitioners had already participated

in the selection process against Class III post in the year 1992 itself and due to one reason or another issuance of appointment letter was delayed, certainly the petitioners may not be denied the pay scale of Rs. 4000 – 6000/- . The issue which has been raised in the present writ petition has already been set at rest by this court in Satyendra Kumar Case (Supra).

In view of the facts and circumstances particularly the fact that the issue involved in the present writ petition has already been set at rest there is no reason to deny the prayer of the petitioners. The writ petition stands allowed with a direction to the respondents to provide the pay scale to the petitioners for which they were entitled i.e. Rs. 4000 - 6000/- from the date of their initial selection / appointment against Class III post and also calculate arrear of salary and pay the same to the petitioners. All the processes must be completed within a period of three months from the date of receipt / production of a copy of this order.

The writ petition is allowed.

(Rakesh Kumar, J)

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