

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3359 of 2011

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1. Anil Kumar S/O Late Rajkishore Prasad R/O Village- Salempur, P.S.- Wena, District- Nalanda, Presently Posted As Senior Personal Assistant (Current Charge), Vidyut Bhawan, Bailey Road, Patna
 2. Radhe Shyam Prasad S/O Sri Rameshwar Prasad R/O Village- Bind, P.S.- Bind, District- Nalanda, Presently Posted As Senior Personal Assistant (Current Charge), Vidyut Bhawan, Bailey Road, Patna
 3. Satyendra Kumar Pandit S/O Sri Nageshwar Pandit R/O Village- Indaut, P.S.- Hilsa, District- Nalanda, Presently Posted As Senior Personal Assistant (Current Charge), Vidyut Bhawan, Bailey Road, Patna
 4. Rajesh Kumar S/O Shri Deo Sharan Prasad Singh R/O Village- Ganjpar, P.S.- Rahui, District- Nalanda, Presently Posted As Personal Assistant, Vidyut Bhawan, Bailey Road, Patna
 5. Raj Kumar Pandit S/O Shri Rajendra Pandit R/O Village- Ahiyapur, P.S.- Noorsarai, District- Nalanda, Presently Posted As Personal Assistant, Vidyut Bhawan, Bailey Road, Patna
 6. Manoj Kumar Arya S/O Shri Binod Kumar Arya R/O Village- Tetaria, P.S.- Barachatti, District- Gaya, Presently Posted As Personal Assistant, Vidyut Bhawan, Bailey Road, Patna
 7. Nagendra Kumar S/O Late Ramswaroop Singh R/O Village- Mangarpa, P.S.- Tarapur, District- Mungar, Presently Posted As Personal Assistant, Vidyut Bhawan, Bailey Road, Patna
 8. Shiv Kumar Prasad Late Bakhori Prasad R/O Village-Kharjama, P.S.- Thrthari Distt.-Nalanda, Presently Posted As Personal Assistant, Vidyut Bhawan, Bailey Road, Patna
 9. Suredndra Prasad S/O Shri Ramanand Prasad R/O Mohalla Chitkohra (Near Maszid) P.S. Gardanibagh, Distt. Patna 800002 presently posted as Personal Assistant Vidyut Bhawan, Bailey Road, Patna

.... Petitioner/s

Versus

1. Bihar State Electricity Board Through The Chairman, Vidyut Bhawan, Bailey Road, Patna
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Baily Road, Patna
3. The Secretary, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna
4. The Joint Secretary, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Sinha

For the Respondent/s : Mr. Vinay Kirti Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

11 06-04-2016

Heard Sri Shailendra Kumar Sinha, learned counsel for the petitioner and Sri Vinay Kirti Singh, learned counsel who has appeared on behalf of all the respondents/Bihar State Electricity Board.

Nine petitioners, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, have prayed for directing the respondents to upgrade their pay -scale to Rs.5500-11020/- (pre -revised) (provisionally revised Rs. 9300 -34800).

It has been claimed that number of persons who were junior to the petitioners were granted higher pay- scale than the petitioners, however, their claim was earlier rejected in view of earlier Board's order, which was issued in the year 1978.

In the counter affidavit it has been stated that subsequently the said Board's Order was annulled by the Board with effect from the date of the earlier order i.e. order dated 12.9.1978. This communication has been enclosed as Annexure – 'A' to the counter affidavit.

In view of the fact that the impediment, which had come in way of grant of similar pay scale to the petitioners, has already been annulled from the date of issuance of the earlier order, certainly petitioners are entitled to get the pay -scale which was provided to the persons, who were junior to the petitioners

from the date they were granted higher scale than the petitioners.

Learned counsel for the petitioners has also placed reliance on judgment of this court i.e. Annexure – ‘6’ and ‘7’ to the writ petition i.e. order dated 24th November 1995 passed in CWJC No. 1902 of 1995 and order dated 26.2.1998 passed in CWJC No. 1294 of 1997. In CWJC No. 1294 of 1997. While allowing almost similar relief of –course in respect to persons of other Cadre this court had observed that **“promotion given commands higher rank and higher status and if a person holding a promotional post on the basis of his seniority or merit, as the case may be, is given less pay then that will be discriminatory and violative of Articles 14 and 16 of the Constitution of India”**. In the said case Board was directed to remove anomaly and give pay protection to the petitioner of the said case which was to be given (pay scale) with effect from the date when persons in a lower grade were given higher scale than the petitioner of the said case.

Sri Vinay Kirti Singh, learned counsel for respondents, has not disputed the fact that persons who were shown junior to the petitioners in the seniority list were given higher pay -scale than the petitioners. However, by way of referring to the statement made in paragraph no. – ‘13’ of the counter affidavit

filed on 10th March 2016 he submits that keeping in view the fact that the petitioners had earlier approached this Court, this Court may indicate that this order may not be treated as precedent and this order may be applicable in respect of petitioners of this case only.

After hearing learned counsel for the parties and considering the facts and circumstances, the writ petition is allowed with a direction to take appropriate steps in view of the fact that earlier Board's Office Order No. 3922 dated 12.9.1978 was annulled from the date of issuance of such order, and as such the respondents are required to settle the claim of the petitioners without any delay and grant the same pay scale from the date on which persons junior to the petitioners were granted the pay-scale. All the formalities are required to 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 with all consequential benefits.

(Rakesh Kumar, J)

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