

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15570 of 2010

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1. Ambika Prasad, S/O Sri Daso Rajbanshi, R/O Village Rabio, P.O.Lound, P.S.Sirdala, Distt-Nawadah
 2. Vijay Shankar Prasad, S/O Sri Lakhan Prasad Rajak R/O Village Sambey, P.O.Sambey, P.S.Warsaliganj, Distt-Nawadah
 3. Abhay Kumar Srivastava, S/O Sri Akhauri Tarkeshwar Prasad, R/O Mohalla-Ambar Chouraha, P.S.-Biharsharif, Distt-Nalanda
 4. Madhurendra Prasad Verma, S/O Late Surya Banshi Prasad, resident of Mohalla- Samir Takiya , Shiv Kunj, Gabada Par, P.S.Kotwali, Distt-Gaya
 5. Sambhu Nath Sarkar, S/O Late Dharmo Das Sarkar 'Sarkar Kutir', Khagaul Road, Yarpur, P.S.Gardanibagh, Distt-Patna
 6. Raj Kishore Choudhary, S/O Sri Lalo Choudhary, Vill-Nihalu Chak, P.S.Nawadah, Distt-Nawadah
 7. Anil Kumar No.1, S/O Sri Jitendra Prasad Sharma, R/O Vill- Mow, P.S.Tekari, Distt-Gaya
 8. Naresh Kumar Nirala, S/O Sri Ram Sagar Prasad, R/O Vill- Bethla, P.O.Baisa, P.S.Parwata, Distt-Khagaria
 9. Varun Kumar Choudhary, S/O Sri Gopal Choudhary, R/O Vill Pindaruku, P.O.& P.S.Pindaruku, Distt-Darbhanga
 10. Gajendra Prasad Singh, S/O Sri Indrajeet Prasad Singh, R/O Vill- Dariyapur, P.S.Fathwa, Distt-Patna
 11. Baikunth Prasad S/O Sri Chandradeo Prasad R/O Vill Neema, P.O.Arthua, P.S.Kashma, Distt-Aurangabad
 12. Ramendra Nath Lala, S/O Sri Gajendra Nath Lala, R/O Vill- & P.O.Chauki, P.S.Manikchak, Distt-Malda (W.B.)
 13. Sidheshwar Prasad, S/O Sri Sukar Prasad, R/O Vill- Kasahdih, P.O.-Silao, P.S.Silao, Distt-Nalanda
 14. Savitri Devi, W/O Late Deena Nath, R/O Mohall- Bageshwari Sthan, P.S.Kotwali, Distt-Gaya

.... Petitioners

Versus

1. The State of Bihar , through The Secretary, Law & Justice Department Government Of Bihar, Patna
2. The Principal Secretary, Finance Department Government Of Bihar, Main Secretariat, Patna
3. The District & Session Judge, Nawadah
4. The Civil Court Nawada through Its Registrar.
5. The High Court of Judicature at Patna through its Registrar General.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhruba Mukherjee, Sr. Advocate
Mr. Arup Kumar Changdar, Advocate
For the State : Mr. Sunil Kumar, AC to AAG-6
For the Respondent No.3 & 4 : Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 07-04-2016

I have heard the parties and perused the records of the case.

All the petitioners are class III employees of Nawada Judgeship and have moved before this Court for a direction to the respondents to consider their cases for grant of first and second A.C.P. from the due dates along with the monitory benefits for the same.

The case of the petitioners is that all of them were appointed in the Nawada judgeship following the due procedure either under the advertisement and through the proper selection process or on compassionate ground under the policy of the State Government in regular pay scales way back. Thereafter, they claim to have been allowed pay scales and promotions treating them as regular employees appointed in the Nawada Judgeship. So far as the grant of A.C.P. is concerned, the class III employees appointed later on have been allowed such benefit but the same has been denied to the petitioners.

A question is raised that when the petitioners are being treated as regular employees and have been granted all the other benefits treating them as regularly appointed employees, why the

benefits of first and second A.C.P. would be denied to them on selective basis when the same has already been allowed to the employees junior to them?

It appears from the record that in view of certain doubts with respect to the appointment of the petitioners in the Judgeship against the sanctioned vacant posts expressed by a Team of the office of the Accountant General, the matter was referred to the Public Accounts Committee of the Vidhan Sabha for enquiry and the same is still pending. On 13.08.2014, a coordinate Bench of this Court had observed that this is not in doubt or denied anywhere that the petitioners were appointed after due advertisement and adhering to the proper selection process or on compassionate ground under the policy of the State Government.

In such a background, the learned Single Judge had observed that since the petitioners were given other benefits treating them as regular employees, there can be no justification in denying them the benefits of A.C.P. However, in view of the stand of the State respondents and in view of the fact that there was some objection regarding the posts having been sanctioned or not, raised by the office of the Accountant General, learned Single Judge directed that the cases of individual employees should be examined by the Law Department for verification of the mode and manner of



their appointment. The petitioners and other employees of the Judgeship having similar grievance were also allowed to represent before the Law Secretary giving all the details with regard to their appointment and subsequent benefits which were allowed to them treating them as regular employees. The Law Secretary was directed to examine the same and verify the facts and if they found duly appointed then, the learned Single Judge expressed opinion that necessary recommendation for grant of A.C.P. in such a case can be given subject to the final decision in respect of sanction and regularization of such posts in the Judgeship and the decision of Public Accounts Committee in that regard. Thereafter, the Law Secretary had examined the matter. His report is on record appended as Annexure-A to the supplementary counter affidavit filed on his behalf. He had made recommendation in favour of all the fourteen persons except the petitioner no.12 Ramendra Nath Lala about whom it has been stated in paragraph 7 of the report that he was appointed by the then District and Sessions Judge in the Copying Department as a daily wager at the wage of Rs.19/-per day and vide order dated 16.06.1990, the then District and Sessions Judge had appointed him on temporary basis on the post of Clerk. He was not able to produce any document showing advertisement or any written examination or interview having been faced by him at the time of his appointment

and, thus, opinion of the Law Secretary is that his appointment cannot be held to be regular.

In such a background, learned counsel for the petitioners also does not press this application so far as the petitioner no.12 is concerned.

So far as others are concerned, there is recommendation that their appointments have been made on regular basis after following the due procedure.

Learned A.A.G.6 appearing for the State has also submitted that the State would also have no objection in grant of A.C.P. to them in view of the recommendation of the Law Secretary. The same view has also been taken by the learned counsel appearing for the District and Sessions Judge, Nawada who has also filed a counter affidavit taking such stand.

Thus, in my view also, there would be no justification in denying the benefits of A.C.P. to the petitioners as all other benefits have been given to them treating them as regular employees.

Accordingly, this writ application is being disposed of with a direction to the competent authority to consider the cases of the petitioners for grant of A.C.P. in the aforesaid background from the dates due and for release of monitory benefits to them from such due date.

However, that would be subject to the decision of the Public Accounts Committee of the Vidhan Sabha where the enquiry is still pending.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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