

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.204 of 2017

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1. Manoj Kumar Son of late Sitaram Prasad resident of Mohalla - Mishratola, Kanak Bhawan, P.O. - Lalbagh, P.S. - Town, District - Darbhanga, retired Personal Assistant, Bihar Industrial Area Development Authority, Head Office, Patna.
 2. Uma Shankar Prasad Son of late Rameshwar Prasad resident of Ward No. 7, near Middle School, Institute Road, P.O. - Lalbagh, P.S. - University Campus, District - Darbhanga, retired Personal Assistant, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
 3. Basuki Nath Mishra Son of late Hari Krishna Mishra resident of Bagh Kothalia, P.O. & P.S. Forbesganj, District - Araria, retired Assistant, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
 4. Sadanand Yadav Son of late Brij Lal Yadav resident of Gangjala, Ward No. - 18, near Dr. P.K. Mallick, P.O., P.S. & District - Saharsa, retired Assistant, Bihar Industrial Area Development Authority, Regional Office, Bhagalpur.
 5. Sunil Kumar Verma Son of late Ganga Prasad Verma resident of Tara Ganga, Ramanand Path, New Balbhadrapur, P.S. - Laheriasarai, District - Darbhanga, retired Assistant Accountant, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
 6. Surya Narain Prasad Son of late Binda Prasad resident of Mohalla - Kaseba Pokhar, Ward No. 4, P.S. - Town, District - Madhubani, retired Industrial Extension Officer, Buxar, Bihar Industrial Area Development Authority, Patna.
 7. Rekha Devi Wife of late Shobhakant Yadav resident of Mohalla - Saidpur, Chuna Bhatti, near D.A.V. School, Laxmi Sagar, P.O. & P.S. - Darbhanga, District - Darbhanga, widow of late Section Officer (retired), Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
 8. Mritunjai Prasad Singh Son of late Anbir Prasad Singh resident of Ganesh Nagar, Tatma Tola, P.S. - Khazanchi Hat, District - Purnea, Retired Assistant Development Officer, Bihar Industrial Area Development Authority, Head Office, Patna.
 9. Siya Sharan Paswan Son of late Saryug Paswan resident of Dhiran Chapra, P.S. - Bela, District - Muzaffarpur, Retired Peon, Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Under Secretary, Department of Industries, Government of Bihar, Patna.
3. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Chairman.
4. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Executive Director, Regional Office, Bihar Industrial Area Development Authority, Darbhanga.
7. The Executive Director, Regional Office, Bihar Industrial Area Development Authority, Patna.
8. The Executive Director, Regional Office, Bihar Industrial Area Development Authority, Bhagalpur.



.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Adv.

For the Respondent/s : Mr. Subhash Prasad Singh-GA3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-09-2017

Heard Mr. Prashant Sinha, learned counsel for the petitioners and Mr. Kumar Ravish, learned A.C. to G.A.3 for the State.

The petitioners are aggrieved by the part of the decision of the Industries Department as reflected from the letter dated 7.1.2015 addressed to the Managing Director, Bihar Industrial Area Development Authority whereby approval has been granted for adoption of the benefit of 6th Pay Revision as well as the benefit from A.C.P. Scheme with effect from the date of issuance of the order and following which an office order has been issued by the Managing Director bearing Memo No.218 dated 19.1.2015 which again forms part of Annexure-5.

The grievance of the petitioners is that once a decision was taken it should have been given a retrospective effect from the date the Scheme was enforced in the year 2003 with effect from 1999. It is not in dispute that these petitioners have superannuated in between the period 2012-14 and the decision to implement the A.C.P. Scheme as well as the grant of benefit under the 6th Pay Revision has been taken



subsequent thereto by the Industries Department as followed by the Bihar Industrial Area Development Authority (‘BIADA’ for sake of brevity).

In my opinion, considering that any adoption of the Scheme or pay scale involves financial implication it is best left at the discretion of the employer to determine the date from which it has to be implemented in the establishment.

Mr. Kumar Ravish learned counsel for ‘BIADA’ has invited the attention of this Court to a similar opinion expressed in the judgment of the Supreme Court reported in **(2008) 14 SCC 702 (Government of Andhra Pradesh Versus N. Subbarayudu)** more particularly paragraph 5 of the judgment. In my opinion the law is well settled and the decision put to challenge requires no interference. Another aspect of the matter is that the decision to grant the benefits having been taken after the superannuation of the petitioners, they can have no cause of action to maintain the writ petition which is accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2017
Transmission Date	NA

