IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9921 of 2017

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1. Binit Kumar, S/o- Late Nandan Sahi, R/o- Damu Chowk, P.O.- Kazimohammadpur, District- Muzaffarpur.
2. Ravi Kumar, S/o- Late Ram Chandra Mahto, R/o- Manpur, P.S.- Kazimohammadpur, District- Muzaffarpur.
3. Namrata Rani, D/o- Late Vimal Kumar Singh, R/o- Krishna Nagar, Ward No.- 2, P.S.- Dumra, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Building Construction Department, Bihar, Patna.
3. The Superintending Engineer, Building Construction Department, Building Circle, Muzaffarpur.
4. The Principal Secretary, Finance Department, Government of Bihar, Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 9745 of 2017

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1. Ajay Kumar, S/o Late Nageshwar Sah, R/o Gobarsahi, Dumari, P.O.- Khabra, P.S.- Sadar, District- Muzaffarpur.
2. Vinod Kumar, S/o Late Sitaram Thakur, R/o Vill- Jogani Jaga, P.O.- Bariarpur, P.S.- Sakra, District- Muzaffarpur.
3. Bipin Kumar Paswan, S/o Late Binod Kumar Paswan, R/o Vill+Post- Bhagwanpur, P.S.- Sadar, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Chief Engineer, North Bihar, Road Construction Department, Patna.
5. The Superintending Engineer, Road Construction Department, North Bihar Road Circle Mujaffarpur.
6. The Executive Engineer, Road Construction Department, Division-1, Muzaffarpur.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 19392 of 2016

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1. Raj Kumar, son of late Mangal Ram resident of Sanyoga Niwas, behind Patliputra Enclave Apartment, North Nehru Nagar, PS- Patliputra, district- Patna, presently working as Junior Accounts Clerk, Rural Works Department, Works Division, Nawadah.
2. Pankaj Kumar son of Nand Kishore Prasad resident of Magadh Commercial Institute, North Nehru Nagar, PS- Patliputra, district- Patna, presently working as Junior Accounts Clerk, Rural Works Department, Works Division, Kisanganj.

3. Md. Shah Faisal Husnain son of late Majharul Haque resident of Ziyarat House, Milki Mohalla, PS- Town, district- Arrah at Bhojpur, presently working as Junior Accounts Clerk, Rural Works Department, Works Division, Nawadah.
4. Md. Sabahur Rahman son of late Md Zeyaur Rahman resident of Shamima Complex, College Road, Churipatti, Ward no. 4, PS.- Kisanganj, District Kishanganj, presently working as Junior Accounts Clerk, Rural Works Department, Works Division, Kishanganj.
5. Sujit Kumar Ball son of late Banbashi Ball resident of Milanpally, PO & PS- Kisanganj, District Kishanganj, presently working as Junior Accounts Clerk, Rural works department, Works Eivision, Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Rural Works Department Govt. of Bihar, Patna.
4. The Additional Secretary, Rural Works Department Govt. of Bihar, Patna.
5. The Engineer-in-Chief, Rural Works Department Govt. of Bihar, Patna.
6. The Chief Engineer, Range-1 Rural Works Department Govt. of Bihar, Patna.
7. The Chief Engineer, Range-2, Rural Works Department Govt. of Bihar, Patna.
8. The Chief Engineer, Range-3 Rural Works Department Govt. of Bihar, Patna.
9. The Chief Engineer, Range-4 Rural Works Department Govt. of Bihar, Patna.
10. The Superintending Engineer, Rural Works Department, Works Circle, Kisanganj.
11. The Superintending Engineer, Rural Works Department, Works Circle, Gaya.
12. The Executive Engineer, Rural Works Department, Works Circle, Nawadah.
13. The Executive Engineer, Rural Works Department, Works Circle, Kisanganj.-1
14. The Executive Engineer, Rural Works Department, Works Division, Kisanganj.-2.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 1679 of 2017

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Niraj Kumar, Son of Late Bishwanath Prasad, Resident of C-19, L.R.P. Colony, Raza Bazar, P.S.-Motihari Cant, Motihari-845401.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Chief Engineer, Communication, North Bihar, Wing, Road Construction Department, Visheshwaraiya Bhawan, Bihar, Patna.
3. The Superintending Engineer, Road Circle, Road Circle, Road Construction Department, Motihari.
4. The, Executive Engineer Road Construction Department, Road Circle, Motihari.
5. The Principal Secretary, Finance Department, Government of Bihar, Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 8538 of 2016

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Satendra Kumar Son of late Mahesh Prasad "Awadh Kunj" Resident of Mohalla-

Babhan Toli Gali (Behind Post Office) PO- Mahendru PS- Sultanganj, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Ptna.
4. The Principal Secretary, General Administration Department Govt. of Bihar, Patna.
5. The Engineer in Chief, P.H.E.D. Govt. of Bihar, Secretariat, Bihar, Patna.
6. The Chief Engineer (Mechanical) P.H.E.D. Govt. of Bihar, Patna.
7. The Superintending Engineer, Public Health Engineering Circle, Darbhanga.
8. The Executive Engineer, Public Health Division, Darbhanga.
9. The Executive Engineer, Public Health Division, Madhubani.
10. The Executive Engineer, Public Health Division, Samastipur.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 7597 of 2017

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1. Ritesh Kumar Jha, S/O- late Jibchh Jha, R/O- Vill+Post- Chainpur, Dhanarua, P.S.- Aurai, District-Muzaffarpur.
2. Manish, S/O Late Krishna Chandra Srivastawa, R/O- Ashok Vihar Colony, P.O.- Kolhia, Paigamberpur Bairea, P.S.- Ahiyarpur, District-Muzaffarpur.
3. Kumar Abhishek, S/O- Late Birendra Kumar Singh, R/O Krihsna Bhawan, Fardogola, P.O. -Bhagwanpur, P.S.- Sadar, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Chief Engineer, North Bihar, Road Construction Department, Patna.
5. The Superintending Engineer, Road Construction Department, North Bihar Road Circle, Muzaffarpur.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 7027 of 2017

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1. Deepak Kumar, S/o Late Bhagwan Singh, R/o- Govt. Quarter No. 32/A, Damuchak, Road No. 1, P.S. - Kazi Mahammadpur, Muzaffarpur.
2. Gaurav Raj, S/o Late Triveni Lal, R/o- Durga Asthan, Kali Kothi, Naka No.-4, Town P.S., District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.

4. The Chief Engineer, North Bihar, Road Construction Department, Patna.
5. The Superintending Engineer, Road Construction Department, North Bihar Road Circle, Mujaffarpur.
6. The Executive Engineer, Road Division No. 2, Muzaffarpur.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 19506 of 2016

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1. Sarfaraz Ali, Son of Late Shahbaz Ali, Resident of Street No. 9, Village - Khilanganj, P.O. - Sasaram, P.S. - Sasaram, District - Rohtas.
2. Saroj Kumar, Son of Late Satnarayan Ray, Resident of Village - Bhadvas, P.O. - Hasanpur Bhadvas, P.S. - Mahua, District - Vaishali (Hajipur).
3. Vijay Kumar, Son of Late Ramjatan Choudhary, Resident of Village - LCT Ghat, Mainpura Bagicha, P.O. - G.P.O., P.S. - Patliputra, District - Patna.
4. Sikandar Kumar, Son of Late Mohan Singh, Resident of Village - Gorgwan, P.O. - Khagaul, P.S. - Shahpur, District - Patna.
5. Nishikant Kumar, Son of Late Kumar Birbal Singh, Resident of Village - Majhawaliya, P.O. - Hariharpur, P.S. - Baniyapur, District -Chapra (Saran).
6. Rajesh Kumar, Son of Late Prasadi Ram, Resident of Village - Lakshmipur, P.O. - Gaurihar, P.S. - Sakra, District - Patna.
7. Rajeev Kumar, Son of Late Gauri Prasad, Resident of Village - Malbigha, P.O. - Kalia Chak, P.S. - Hilsa, District - Nalanda (Biharsharif).
8. Md. Jawed, Son of Late Eqbal Hussain, Resident of Mohalla - Panchaitiya Akhara, P.O. - Railway Station, P.S. - Kotwali, District - Gaya.
9. Samrendra Pratap, Son of late Ram Briksh Yadav, Resident of Village - Ibrahimpur, P.O. - Matigaon, P.S. - Chandauli, District - Chandauli (U.P.).
10. Ritesh Kumar Srivastava, Son of Late Shankar Prasad, Resident of Village - Tali, P.O. - Tali, P.S. - Gothani, District - Siwan.
11. Pawan Kumar Chaudhary, Son of Late Anup Lal Chaudhary, Resident of Village - Chainpur, P.O. - Damodarpur, P.S. - Kanti, District - Muzaffarpur.
12. Rajesh Kumar, Son of Late Radha Mohan Prasad, Resident of Village - Dalhatta Bazar, P.O. Basudeopur, P.S. - Kotwali, District - Munger.
13. Tanveer Alam, Son of Late Shakil Akhtar Ansari, Resident of Village - Hasanpura, P.O. - Garkha, P.S. - Garkha, District - Saran (Chapra).
14. Mukesh Kumar, Son of Late Hare Krishna Prasad, Resident of Village - Lakhwar, P.O. - Lakhwar, P.S. - Ghoshi, District - Jehanabad.
15. Asif Eqbal, Son of Late Md. Izharul Haque Ansari, Resident of Village - Sapahi, P.O. - Jhitkahi, P.S. - Dhaka, District - East Champaran.
16. Niranjan Kumar Rajak, Son of Late Indranand Rajak, Resident of Village - Mahsoni, P.O. - Kajra, P.S. - Piri Bazar, District - Lakhisarai.
17. Shambhu Kumar, Son of Late Amardev Prasad, Resident of Village + P.O. - Penar, P.S. - Nokha, District - Rohtas (Sasaram).

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.

6. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Rural Works Department, Government of Bihar, Patna.
7. The Chief Engineer - 1, Rural Works Department, Government of Bihar, Patna.
8. The Chief Engineer - II, Rural Works Department, Government of Bihar, Patna.
9. The Chief Engineer - III, Rural Works Department, Government of Bihar, Patna.
10. The Superintending Engineer, Rural Works Department, Works Circle, Muzaffarpur.
11. The Superintending Engineer, Rural Works Department, Works Circle, Saharsa.
12. The Superintending Engineer, Rural Works Department, Works Circle, Patna.
13. The Superintending Engineer, Rural Works Department, Works Circle, Madhepura.
14. The Superintending Engineer, Rural Works Department, Works Circle, Chapra.
15. The Superintending Engineer, Rural Works Department, Works Circle, Samastipur.
16. The Superintending Engineer, Rural Works Department, Works Circle, Gaya.
17. The Superintending Engineer, Rural Works Department, Works Circle, Motihari.
18. The Superintending Engineer, Rural Works Department, Works Circle, Munger.
19. The Executive Engineer, Rural Works Department, Works Division, Hajipur.
20. The Executive Engineer, Rural Works Department, Works Division, Simri Bakhtiyarpur.
21. The Executive Engineer, Rural Works Department, Works Division, Munger.
22. The Executive Engineer, Rural Works Department, Works Division, Paliganj.
23. The Executive Engineer, Rural Works Department, Works Division, Khagaria.
24. The Executive Engineer, Rural Works Department, Works Division, Triveniganj.
25. The Executive Engineer, Rural Works Department, Works Division, Sonepur.
26. The Executive Engineer, Rural Works Department, Works Division, Majhaul Bakhar.
27. The Executive Engineer, Rural Works Department, Works Division, Muzaffarpur East - II.
28. The Executive Engineer, Rural Works Department, Works Division, Raxaul.
29. The Executive Engineer, Rural Works Department, Works Division, Jehanabad.
30. The Executive Engineer, Rural Works Department, Works Division, Jhajha.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 8031 of 2017

==

Niraj Kumar, Son of Late Satyendra Narain Singh, R/o Village- Balaha, P.O.- Parsauni, P.S.- Parsauni, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
5. The Engineer-in- Chief, Rural Works Department, Government of Bihar, Patna.

6. The Chief Engineer, Range-3, Rural Works Department, Government of Bihar, Patna.
7. The Superintending Engineer, Rural Works Department, Woks Circle, Siwan.
8. The Executive Engineer, Rural Works Department, Works Division, Gopalganj- 2.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 8726 of 2017

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1. Manoj Kumar, S/o- Late Devendra Prasad Sinha, R/o- Belwarganj, PO + P.S.- Laheriasarai, District- Darbhanga.
2. Lallu Pal, S/o- Late Shiv Sharan Prasad, R/o- Karori Chak, PO + P.S.- Phulwari Sharif, District- Patna.
3. Alok Raj, S/o- Late Surendra Nath Tiwary, R/o- Beena Sri Apartment, Punaichak, PO + P.S.- Shashtri Nagar, Patna.
4. Anand Mohan Jha, S/o- Late Ananta Nand Jha, R/o- Gauria, PO + P.S.- Bounsi, District- Banka.
5. Lalit Narayan Mishra, S/o- Late Vijay Shankar Mishra, R/o- Aam Bagicha, Mahadev Puri, PO + P.S.- Gardanibagh, District- Patna.
6. Rama Kant Ray, S/o- Late Darmendra Kr. Rai, R/o- New Sipara (Matkhan), P.S.- Delwa, P.S.- Beaur, District- Patna.
7. Ajit Kumar Jha, S/o- Late Shrikant Jha, R/o- Kathra, PO + P.S.- Manigachhi, District- Darbhanga.
8. Sunil Kumar Jha, S/o- Late Suresh Jha, R/o- PO- Sabha Sasola, PS- Mejarganj, District- Sitamarhi.
9. Mithilesh Paswan, S/o- Late Dayaram Paswan, R/o- Rajapur, PO- GPO, P.S.- Patliputra, District- Patna.
10. Sarvjeet Kumar, S/o- Late Rameshwar Prasad Singh, R/o- Sai Takiya, Near I.D.H. Quarter, PO- Gulzarbagh, P.S.- Alamganj, District- Patna.
11. Sakle Deo Kumar, S/o- Late Bhumi Mandal, R/o- New Bikhachak, Vishnupuri, PO- Anishabad, P.S.- Gardanibagh, District- Patna.
12. Raju Kumar, S/o- Late Mahendra Bhagat, R/o- Q.No. C/9, East Gardiner Road, Birchand Patel Path, PO- GPO, P.S.- Kotwali, District- Patna.
13. Shiv Shankar Kumar, S/o- Late Narayan Prasad, R/o + PO- Mangrauni, P.S.- Rajnagar, District- Madhubani.
14. Ajay Kumar, S/o- Late Nageshwar Prasad, R/o- Maharaj Chak, PO + P.S.- Masudhi, District- Patna.
15. Vikash, S/o- Late Suresh Chandra, R/o- Chourasia, C-7, Bank Road, PO- G.P.O., P.S.- Gandhi Maidan, District- Patna.
16. Dheeraj Kumar Shukla, S/o- Late Shiv Shankar Shukla, R/o- Walidad, P.S.- Mehendiya, District- Arwal.
17. Subodh Nath Yadav, S/o- Late Ram Naresh Yadav, R/o- Village- Chhatrapura, PO- Magauliraj, P.S.- Bhatparrani, District- Dewriya, U.P.
18. Rakesh Kumar, S/o- Late Baidhya Nath Prasad, R/o- Lodipur, P.O.- G.P.O., P.S.- Gandhi Maidan, District- Patna.
19. Nitesh Kumar, S/o- Late Sunil Kumar Singh, R/o- Q. No. 73/400, PO- Rajbanshi Nagar, P.S.- Shastrinagar, District- Patna.
20. Priya Ranjan, S/o- Late Dineshwar Prasad, R/o- Mainpura, Kahartoli, PO- GPO, P.S.- Patliputra, District- Patna.
21. Jitendra Kumar, S/o- Late Ramanand Mahto, R/o- Isopur, Ray Chowk, PO- Anishabad, P.S.- Phulwari Sharif, District- Patna.
22. Rakesh Kumar, S/o- Late Ram Babu Raut, R/o- Krori Chak, PO + P.S.-

Phulwari Sharif, District- Patna.

23. Rajeev Ranjan, S/o- Late Gauri Shankar Prasad, R/o- Sheo Deep Niwash, M.O. Chanakyapuri, Gola Road, Danapur, PO + P.S.- Danapur, District- Patna.
24. Vipin Kumar, S/o- Late Ram Ayodhya Prasad, R/o- 288/400, Road No. 3, PO + P.S.- Shastri Nagar, District- Patna.
25. Sunny Kumar, S/o- Late Bachhu Ram, R/o- Q. No. C/3, Road No. 1A, R-Block, PO- GPO, P.S.- Sachiwalya Thana, Patna.
26. Raju Paswan, S/o- Late Jai Kishun Paswan (Prasad), R/o- C-11, Bank Road, PO- Bankipur, P.S.- Gandhi Maidan, District- Patna.
27. Bachcha Singh, S/o- Late Siyaram Singh, R/o- Village- Saharu, PO- Ranna, PS- Hathori, District- Samastipur.
28. Upendra Kumar, S/o- Late Ramdhari Ray, R/o- Village- Raydih, PO- Katesar, P.S.- Bihta, District- Patna.
29. Dinesh Kumar Thakur, S/o Late Laxman Ram, R/o- Q. No. 312/A, Patliputra Colony, Road No. 1/D, G.D. Mishra Path, PO- Patliputra, P.S.- Patliputra, District- Patna.
30. Pankaj Kumar, S/o- Late Shiv Nandan Saw, R/o- Kishunpur, PO + P.S.- Bihta, District- Patna.
31. Sudhir Kumar, S/o- Late Nand Lal Prasad, R/o- Vishnu Puri, PO- Anishabad, P.S.- Gardanibagh, District- Patna.
32. Ravindra Prasad, S/o- Late Yadunandan Yadav, R/o- East Bikhanchak, PO- Anishabad, P.S.- Gardanibagh, District- Patna.
33. Manoj Kumar Chaudhary, S/o- Late Ramchandra Chaudhary, R/o- Q. No. B/96, Sinha Library Road, Chajju Bagh, PO- GPO, P.S.- Kotwali, District- Patna.
34. Girish Chandra Sharma, S/o- Late Mahendra Pd. Sharma, R/o- Alamganj, PO- Gulzarbagh, P.S.- Alamganj, District- Patna.
35. Rajesh Kumar Upadhyay, S/o- Late Ram Pukar Upadhyay, At+ PO- Rewa, P.S.- Saraiya, District- Muzaffarpur.
36. Anurag Kumar, S/o- Late Arun Kumar Tripathi, R/o- Q.No. C/2, East Gardiner Road, PO- GPO, P.S.- Kotwali, District- Patna.
37. Hari Narayan, S/o- Late Rajendra Prasad, R/o- North Mandiri, Chhakan Tola, PO- GPO, P.S.- Buddha Colony, District- Patna.
38. Piyush Ranjan, S/o- Late Satyendra Prasad, MO- Khajurbanna, PO- Mahendru, P.S.- Sultanganj, District- Patna.
39. Shyam Kumar, S/o- Late Duryodhan Prasad, Virdawan Colony, Road No. 2, Walmi, Phulwari Sharif, Patna.
40. Chanchal Kumar Sinha, S/o- Late Ashok Kumar Sinha, R/o- MO- Ram Lakhan Mahto Flat, PO- GPO, P.S.- Jakkanpur, Old Jakkanpur, District- Patna.
41. Vikash Kumar, S/o- Late Sudhir Kumar, R/o- Phulwari Sharif, PO- Anishabad, P.S.- Phulwari Sharif, District- Patna.
42. Dhananjay Kumar, S/o- Late Mahakant Mishra, R/o- Kalyanpur, PO + P.S.- Athmal Gola, District- Patna.
43. Anil Kumar, S/o- Late Chotte Lal Mahto, R/o- Ranipur, PO- Anishabad, P.S.- Phulwari Sharif, District- Patna.
44. Arvind Kumar, S/o- Late Lalji Prasad, R/o- Mohalla- Sarswati Lane, Lohanipur, Punaichak, PO + P.S.- Kadamkuan, District- Patna.
45. Ajit Kumar, S/o- Late Mahendra Roy, R/o- Punaichak, PO- Punaichak, P.S.- Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Secretary (Expenditure), Department of Finance, Government of Bihar, Patna.
5. The Additional Secretary, Building Construction Department, Government of Bihar, Patna.
6. The Engineer-in- Chief, Building Construction Department, Government of Bihar, Patna.
7. The Superintending Engineer, South Bihar Circle, Building Construction Department, Government of Bihar, New Punaichak, Patna, District- Patna.
8. The Superintending Engineer, Patna Building Circle, Building Construction Department, Rajbanshi Nagar, Patna, District- Patna.
9. The Superintending Engineer, Construction Circle, Building Construction Department, Bishwasaraiya Bhawan, Patna, District- Patna.
10. The Superintending Engineer, Building Circle, Darbhanga, District- Darbhanga.
11. Executive Engineer, Rent Division, Building Construction Department, New Punaichak, Patna, District- Patna.
12. The Executive Engineer, Patna Building Division, Building Construction Department, Patna, District- Patna.
13. The Executive, Central Building Division, Building Construction Department, Patna, District- Patna.
14. The Executive Engineer, Patna, West Building Division, Danapur, Building Construction Department, Patna, District- Patna.
15. The Executive Engineer, Patliputra Building Division, Building Construction Department, Patna, District- Patna.
16. The Executive Engineer, Gardanibagh Building Division, Building Construction Department, Patna, District- Patna.
17. The Executive Engineer, Garden Division, Building Construction Department, Patna, District- Patna.
18. The Executive Engineer, Construction Division-2, Building Construction Department, Patna, District- Patna.
19. The Executive Engineer, Building Division, Begusarai, District- Begusarai.
20. The Executive Engineer, Building Division, Samastipur, District- Samastipur.
21. The Executive Engineer, Construction Division, Darbhanga, District- Darbhanga.
22. The Executive Engineer, Building Division, Biharsharif, District- Nalanda.
23. The Executive Engineer, Patna City Building Division, Gulzarbagh, District- Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 1276 of 2017

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1. Rakesh Kumar Pandey, son of late Ratneshwari Sharan Pandey, resident of Mohalla- Road No.6, near Nala, Magadh Niketan Society, Rajiv Nagar, P.S.- Rajiv Nagar, District- Patna.
2. Sanjay Kumar, son of late Ram Babu, resident of village- Viwer Sikariya, PS.- Jehanabad, Dstrict- Jehanabad.
3. Kanhaiya Lal Pandit, son of late Amrit Pandit, resident of village- Dalhatta Kumhar Toli, PS- Kotwali, District- Munger.
4. Santosh Kumar, son of late Keshav Sharma, resident of village- Parasi, PS- Parasi, District- Arwal.

5. Ajit Kumar, son of late Deo Pujan Prasad, resident of village- Painapur, PS- Bikram, District- Patna.
6. Pramod Kumar, son of late Satyanarayan Mahto, resident of village- Baudh Tola, PS- Sathi, District- West Champaran.
7. M.W. Jawed, son of late Md. Murtaza, resident of village- Baghi, P.S. Lauria, District- West Champaran.
8. Hira Kumar, son of late Shiv Narayan Sah, resident of village- Sant Nagar, Gangjala, PS- Saharsa, District- Saharsa.
9. Santosh Kumar, son of late Brijnandan Thakur, resident of village- Shakurabad, PS- Jehanabad, District- Jehanabad.
10. Anil Kumar, son of late Jai Narayan Prasad, resident of Village Patahi, PS- Patahi, District- East Champaran.
11. Rakesh Kumar, son of late Rajendra Prasad Yadav, resident of village- Shivpuri Colony, Road No.2, PS- Chandauli, District- Gaya.
12. Dinesh Kumar, son of late Manohar Prasad, resident of Village- Sirdalla, PS- Sirdalla, District- Nawada.
13. Smt. Vandana Prasad, son of late S.P.K. Nidhi, resident of village- Ghatari, PS- Kartaha, District- Vaishali.
14. Rajeev Kumar, son of late Jawahar Prasad Manthi, resident of Village- Rampur, PS- Navipur, District- West Champaran.
15. Jay Prakash, son of late Hanuman Singh, resident of village- Jhali, PS- Karamchat, District- Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Rural Works Department, Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
6. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Rural Works Department, Government of Bihar, Patna.
7. The Chief Engineer-I, Rural Works Department, Government of Bihar, Patna.
8. The Chief Engineer-II, Rural Works Department, Government of Bihar, Patna.
9. The Chief Engineer-III, Rural Works Department, Government of Bihar, Patna.
10. The Superintending Engineer, Rural Works Department, Works Circle, Aurangabad.
11. The Superintending Engineer, Rural Works Department, Works Circle, Ara.
12. The Superintending Engineer, Rural Works Department, Works Circle, Madhepura.
13. The Superintending Engineer, Rural Works Department, Works Circle, Bettiah.
14. The Superintending Engineer, Rural Works Department, Works Circle, Gaya.
15. The Superintending Engineer, Rural Works Department, Works Circle, Motihari.
16. The Superintending Engineer, Rural Works Department, Works Circle, Bhagalpur.
17. The Executive Engineer, Rural Works Department, Works Division, Bagha-2.
18. The Executive Engineer, Rural Works Department, Works Division, Arwal.
19. The Executive Engineer, Rural Works Department, Works Division, Aurangabad.
20. The Executive Engineer, Rural Works Department, Works Division, Bettiah.

21. The Executive Engineer, Rural Works Department, Works Division, Sasaram-2.
22. The Executive Engineer, Rural Works Department, Works Division, Madhepura.
23. The Executive Engineer, Rural Works Department, Works Division, Motihari.
24. The Executive Engineer, Rural Works Department, Works Division, Navgachhia.
25. The Executive Engineer, Rural Works Department, Works Division, Sherghati.
26. The Executive Engineer, Rural Works Department, Works Division, Jehanabad.
27. The Executive Engineer, Rural Works Department, Works Division, Rajgir.

.... Respondent/s

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Appearance :

(In CWJC No.9921 of 2017)
For the Petitioner/s : Ms. Manisha Singh, Adv.
Ms. Roona, Adv.
For the Respondent/s : Mr. Ashok Kumar Dubey, AC to AAG-11
(In CWJC No.9745 of 2017)
For the Petitioner/s : Ms. Manisha Singh, Adv.
For the Respondent/s : Mr. Rakesh Kr. Choudhary, AC to GP-19
(In CWJC No.19392 of 2016)
For the Petitioner/s : Mr. Prashant Sinha, Adv.
For the Respondent/s : Mr. Ajay, GA-5
(In CWJC No.1679 of 2017)
For the Petitioner/s : Ms. Manisha Singh, Adv.
For the Respondent/s : Ms. Shobha Chaubey, AC to GP-19
(In CWJC No.8538 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Adv.
Mr. Ram Ganesh, Adv.
For the Respondent/s : Mr. Rajeev Shekhar, AC to GA-4
(In CWJC No.7597 of 2017)
For the Petitioner/s : Ms. Manisha Singh, Adv.
For the Respondent/s : Mr. Manoj Kumar Ambastha, SC-26
Mr. Subodh Kumar, AC to SC-6
(In CWJC No.7027 of 2017)
For the Petitioner/s : Ms. Manisha Singh, Adv.
For the Respondent/s : Mr. Manoj Kumar Ambastha, SC-26
Mr. Subodh Kumar, AC to SC-6
(In CWJC No.19506 of 2016)
For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate with
Mr. Brisketu Sharan Pandey, Adv.
For the Respondent/s : Mr. Manish Kumar, AC to AAG-6
(In CWJC No.8031 of 2017)
For the Petitioner/s : Mr. Prashant Sinha, Adv.
For the Respondent/s : Mr. Manish Kumar, AC to AAG-6
(In CWJC No.8726 of 2017)
For the Petitioner/s : Mr. Siya Ram Shahi, Adv.
Ms. Shally Kumari, Adv.
For the Respondent/s : Mr. Swapnil Kumar Singh, AC to GP-19
(In CWJC No.1276 of 2017)
For the Petitioner/s : Mr. Prabhu Nath Pathak, Adv.
For the Respondent/s : Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 21-08-2017

Trust the Finance Department of the Government of Bihar to create a dispute when there exists none. The situation in hand is a classic example of the State in its Finance Department litigating at its lowest level. The response of the Finance Department, Government of Bihar to the issues raised herein, in fact, borders on contempt for the Finance Department thinks that it is above law and has a right to maintain an opinion which is in conflict with the judicial verdicts.

In what could have been disposed of by the Finance Department of the Government of Bihar as well as the Controlling Authorities of the petitioners herein, in the light of the issues settled by the Division Bench of this Court rendered in **LPA No.206 of 2014 (The State of Bihar Vs. Ram Janam Jha and others)** and despite the fact that the State has lost its challenge up to the Supreme Court to the issue so settled by the Division Bench yet the arrogance of the State in its Finance Department is reflective from the response where the deponent Under Secretary, Finance Department on the authorization of the Principal Secretary, Finance Department, has the audacity to term the judgment of the Division Bench in the case of **Ram Janam Jha** (supra), *per incuriam,* without having the least of the knowledge and understanding as to what the term means and whether he has the jurisdiction and authority to opine as such.

It is this brazen response of the State in its Finance Department which has necessitated a discussion on the issue which otherwise could have been well disposed of by two line order in the light of the opinion already expressed by the Division Bench in the case of **Ram Janam Jha** (supra) inasmuch as the relief so prayed stands covered by the said opinion.

Since each of the writ petitioners seek identical relief feeling aggrieved by similar arrogance of the State, that the writ petitions so filed by them have been heard together and are being disposed of with the consent of the parties at the stage of admission itself.

For the sake of convenience, the prayer made in each of the writ petitions is discussed hereinbelow:

Re: CWJC No.9921 of 2017:

The petitioners in this case have prayed for quashing of the order dated 8.6.2017 as contained in Annexure P/5 to the said writ petition, whereby the Superintending Engineer, Building Circle, Muzaffarpur in reference to a letter of the Additional Secretary, Building Construction Department bearing No.4025 dated 15.5.2017 and the letter of the Chief Engineer (North), Building Construction Department, Bihar, Patna bearing No.951

dated 22.5.2017 has been pleased to order for reversion of these petitioners holding the post of Lower Division Accounts Clerk/Lower Division Clerk (Accounts) in the pay scale of Rs.3050-4590/- with effect from 20.12.2000.

Such is the height of mindless application of the Superintending Engineer that even though these petitioners were appointed on 4.2.2002 or thereafter but the reversion has been made effective from 20.12.2000.

The petitioners also pray for restoration of their pay-scale in the light of the judgment and order of the Division Bench passed in the case of **Ram Janam Jha** (supra) and the Government Resolution No.3111 dated 25.3.2015, a copy of which is placed at Annexure P/4.

For completion of the documents relevant for consideration, I may mention that the copy of the advisory of the Building Construction Department dated 15.5.2017 and 22.5.2017 relied upon by the Superintending Engineer in the order of reversion dated 8.6.2017 impugned at Annexure P/5 has been placed on record vide Annexure 'B' and 'C' respectively to the counter affidavit of the Superintending Engineer filed in the proceedings.

Re: **<u>CWJC No. 9745 of 2017</u>**:

The three petitioners in this case have questioned the order dated 10.4.2017 of the Superintending Engineer, North Bihar Road Circle, Muzaffarpur bearing Memo No.629 whereby the petitioners who were appointed as Lower Division Accounts Clerk have been re-designated as Lower Division Clerk with effect from the date of their initial appointment and assigned the pay-scale of Rs.3050-4590/- with its revised scale payable with effect from 1.1.2006 in the Pay Band of Rs.5200-20200/- and with further direction for recovery of the excess amount paid to them in appropriate installments by virtue of the scale granted to them as Lower Division Accounts Clerk.

The Superintending Engineer has referred to the letters of the Finance Department dated 25.3.2015 and 11.7.2016 to hold that as per the advisory, all appointments on compassionate ground were to be made on the post of Lower Division Clerk and that the advisory present in the circular dated 25.3.2015 covers the case of direct recruitments only and not the appointments made on compassionate ground.

Re: **CWJC No.19392 of 2016**:

The five petitioners herein have prayed for quashing of the order bearing Memo No.12402 dated 2.11.2016 of the Additional Secretary, Rural Works Department, Government of Bihar whereby it has been decided that all appointments made against the post of Accounts Clerk, Lower Division Clerk

(Accounts) and Junior Accounts Clerk in the grade pay of Rs.2400/- on compassionate ground would be re-designated as Lower Division Clerk with effect from their initial appointment in the pay-scale of Rs.3050-4590/- and the excess salary drawn by them as clerks in the Accounts Cadre would be recovered.

The petitioners also pray for quashing of paragraph 7 of the Memo No.5483 dated 11.7.2016 whereby the Finance Department has tried to create a class in between those appointed through direct recruitment and those appointed on compassionate grounds, to hold that the benefit of Resolution No.3111 dated 25.3.2015 does not cover the case of compassionate appointees. The petitioners pray for restoration of their scale in tune with the circular No.3111 dated 25.3.2015 by the Finance Department.

Re: **CWJC No.1679 of 2017**:

The sole petitioner in this case has prayed for quashing of the order dated 28.10.2016 of the Superintending Engineer, Road Circle, Motihari whereby the petitioner has been relegated to the post of Lower Division Clerk with effect from the date of his initial appointment in the light of the Finance Department's letter no.8825 dated 20.12.2000 and letter no.531 dated 22.1.2003 and orders have been issued for recovery of the excess amount paid to him. The petitioner has also questioned the consequential order dated 16.11.2016 of the Superintending Engineer, Road Circle, Motihari reverting him to the post of Lower Division Clerk impugned at Annexure-8. The petitioner alongside prays for restoration of his scale.

Re: **CWJC No.8538 of 2016**:

The sole petitioner prays for quashing of the order bearing Memo No.398 dated 13.4.2016 of the Chief Engineer (Mechanical), Public Health Engineering Department impugned at Annexure- 19 whereby the representation of the petitioner for restoration of his pay-scale has been rejected.

The petitioner has also prayed for quashing of the order bearing Memo No.733 dated 8.11.2014 of the Superintending Engineer, Public, Health Engineering, Darbhanga Circle, Darbhanga impugned at Annexure 1/4, whereby he has been reverted to the post of Lower Division Clerk in the scale of Rs.3050-4590/-. The petitioner also prays for issuance of mandamus to allow the petitioner to continue as Junior Accounts Clerk together with the scale attached thereto.

Re: CWJC No.7597 of 2017:
with
CWJC No. 7027 of 2017:

The petitioners of these two writ petitions have prayed for quashing of the order dated 10.4.2017 of the Superintending Engineer, North Bihar Road Circle, Muzaffarpur, whereby the petitioners have been reverted to the post of Lower Division Clerk in the light of the Finance Department's letter bearing No.5483 dated 11.7.2016 whereby it has been advised that the benefit of the Resolution No.3111 dated 25.3.2015 is not extendible to compassionate appointees and orders have been issued for recovery of excess amount. The petitioners also pray for restoration of their pay-scale.

Re: **CWJC No.19506 of 2016**
with
CWJC No.8031 of 2017
with
CWJC No.1276 of 2017

The petitioners of these three writ petitions have prayed for quashing of the order dated 2.11.2016 of the Additional Secretary, Rural Works Department, whereby they have been reverted to the scale of Lower Division Clerk and orders of recovery has been issued for the excess salary drawn by them in the Accounts Cadre. The petitioners also pray for restoration of their pay-scale and for issuance of mandamus to the respondents to allow them to continue on their respective posts as also for stay of the recovery amount.

Re: **CWJC No.8726 of 2017**:

The 45 petitioners herein have prayed for quashing of the order bearing Memo No.4025 dated 15.5.2017 of the Additional Secretary, Building Construction Department impugned at Annexure-6 whereby they have been reverted in the scale of Lower

Division Clerk of Rs.3050-4590/- with orders of recovery. The petitioners pray for restoration of their pay-scale in view of the Finance Department's Resolution No.3111 dated 25.3.2015.

Having discussed the reliefs prayed in the writ petitions, I would now briefly discuss the facts leading to the set of cases.

The facts involved in the present batch of writ petitions do lie in a very narrow compass. All the petitioners herein were appointed on compassionate grounds on various posts in the accounts cadre viz, Lower Division Accounts Clerk/Junior Accounts Clerk/Lower Division Clerk (Accounts). It is again not in dispute that all these petitioners were appointed after 20.12.2000 which date bears relevance in the nature of the contest set up by the parties. It is again not in dispute that these petitioners were initially appointed in the pay-scale of Rs.3050-4590/- and their scales were upgraded subsequently and the benefit confirmed by the resolution of the Finance Department bearing No.3111 dated 25.3.2015 but is now sought to be cancelled in the light of a subsequent advisory issued by the Finance Department bearing No.5483 dated 11.7.2016, inter alia, on grounds that the benefit of the resolution no.3111 dated 25.3.2015 of the Finance Department did not cover the case of compassionate appointees rather was applicable only to direct recruits who had entered service after facing regular selection process.

The issue so raised and contested herein has not engaged the attention of this Court for the first time rather a similar issue came up for consideration before this Court in **CWJC No.12124 of 2011 (Ram Janam Jha and others vs. The State of Bihar**) when a grievance raised on wrong fixation of the pay-scale to the Account Clerks, the respondents, was put to challenge before this Court. A coordinate Bench of this Court while quashing the order of the Finance Department dated 3.8.2010 passed on similar lines, has held that the petitioners of the said case would be treated as Accounts Clerk throughout, with all consequential benefits. A direction was issued that the pay-scale so granted to them are not to be refixed nor recovery permissible and that the petitioners would be entitled to be paid on the basis of their designation as Accounts Clerk and their retrial dues to be calculated accordingly. The State respondents which included the Controlling Authority of the said petitioners as well as the Finance Department, preferred intra court appeal giving rise to **LPA No.206 of 2016 (The State of Bihar & others vs. Ram Janam Jha and others)**. The Division Bench taking note of the Finance Department's resolution no.3111 dated 25.3.2015 has vide judgment and order passed on 24.8.2016 held, that since the State Government itself has decided to do away with the distinction between the Junior Accounts Clerk and Senior Accounts Clerk and since a decision was taken to grant the pay-scale meant for Senior Accounts Clerk to all Accounts Clerks, whether appointed on compassionate ground or otherwise, all of them would be entitled to the same pay-scale.

The State went ahead to question the judgment of the Division Bench dated 24.8.2016 before the Apex Court in **SLP (Civil) No.2982 of 2017 (State of Bihar vs. Ram Janam Jha)** and which has been dismissed by the Supreme Court vide judgment and order passed on 10.2.2017.

It is while the Letters Patent Appeal of the State was pending consideration before the Division Bench that the Finance Department has tried to pre-empt the decision vide resolution no.5483 dated 11.7.2016 to hold that the benefit of resolution no.3111 dated 25.3.2015 would not cover the case of compassionate appointees.

As I have said, it is this brazen conduct of the Finance Department which has been blindly followed by the controlling department of the petitioners by not only reverting them to the post of Lower Division Clerk but also to order for recovery of the excess amount drawn by them which has led to the filing of the present batch of writ petitions.

Mr. P.K. Shahi, learned senior counsel has appeared for the petitioners in CWJC No.19506 of 2016 along with Mr. Brishketu Sharan Pandey, while Mr. Siya Ram Shahi along with

Ms. Shally Kumari have appeared for the petitioners in CWJC No.8726 of 2017, Ms. Manisha Singh has appeared for the petitioners in CWJC No.9921 of 2017, CWJC No.9745 of 2017, CWJC No.1679 of 2017, CWJCNo.7597 of 2017 and CWJC No.7027 of 2017, Mr. Prashant Sinha, learned counsel has appeared for the petitioners in CWJC No.19392 of 2016, CWJC No.8031 of 2017, Mr. Siyaram Pandey, learned counsel has appeared for the petitioner in CWJC No.8538 of 2016 and Mr. P.N. Pathak, learned counsel has appeared for the petitioners in CWJC No.1276 of 2017. The respondent State which includes the controlling departments of the petitioners as well as the Finance Department is represented by their respective State Counsel.

Counter affidavit(s) have been filed on behalf of the controlling departments as well as the Finance Department.

While the arguments on behalf of the petitioner has been led by Mr. Siyaram Shahi and which has been followed by the learned counsel appearing for the other petitioners, the argument on behalf of the respondent-State including the Finance Department and the controlling departments was led by Mr. Ashok Kumar Dubey, learned Assisting Counsel to Additional Advocate General No.11 with other State Counsel lending support to the arguments.

Since Mr. Siya Ram Shahi has led the arguments on behalf of the petitioners, hence for the sake of convenience, I shall be referring to the pleadings made in CWJC No.8726 of 2017 and since Mr. Ashok Kumar Dubey, learned Assisting Counsel to Additional Advocate General No.11 has led the argument for the State in reference to the counter affidavit filed in CWJC No.9921 of 2017, I shall be referring to the pleadings of the counter affidavit filed in the said writ petition in my discussions, unless clarified with specific reference to the pleadings made in the other writ petitions.

Mr. Shahi has referred to the appointment order present at Annexure-2 to submit that the petitioners were appointed as Junior Accounts Clerk/Lower Division Accounts Clerk/Lower Division Clerk (Accounts) and posted in different Building Divisions across the State. In reference to the chart present at Annexure-1 he submits that the 45 petitioners were appointed on compassionate ground on different posts in Accounts Clerical Cadre on different dates beginning 1.1.2001 with the last appointments made on 4.3.2014.

It is submitted by Mr. Shahi that prior to 1980 there were two posts in the Accounts Clerical Cadre i.e. Junior Accounts Clerk and Senior Accounts Clerk but vide Finance Department's letter no.1876 dated 18.2.1981, a copy of which is present at Annexure-3, the State Government took a decision to grant a uniform scale to all the Accounts Clerks whether posted in the

Collectorate or Mufassil offices. It is stated that the pay-scale attached to the post of Senior Accounts Clerk i.e. Rs.260-408/- was granted to all the Accounts Clerk across the board whether appointed a Junior Accounts Clerk or holding the post of Senior Accounts Clerk.

Mr. Shahi has next referred to Annexure- 'R2/D' to the counter affidavit filed on behalf of the Finance Department in the said writ petition which is a letter bearing Memo No.8825 dated 20.12.2000 of the Special Secretary, Finance Department addressed to the Accountant General, Bihar informing him that the Clerical Cadre which had been unified with effect from 1.5.1980 would now be de-merged with creation of a post of Lower Division Clerk in the pay-scale of Rs.3050-4590/- and Upper Division Clerk in the scale of Rs.4000-6000/-.

Learned counsel has next referred to the circular of the Department of Personnel and Administrative Reforms dated 5.10.1991 present at Annexure R2/A, to submit that Clause 8 (क) makes it clear that compassionate appointment could be made on any Class IV post or on any Class III post having pay-scale of Rs.1200-1800/-

Learned counsel has next referred to another circular of the Personnel and Administrative Reforms Department dated 20.6.2001 enclosed at Annexure-A to the counter affidavit of the

Building Construction Department filed in CWJC No.8726 of 2017 to submit that the replacement pay-scale of Rs.1200-1800/- was Rs.3050-4590/- even for compassionate appointees. The next notification referred to by Mr. Shahi is the resolution of the Finance Department bearing no.3111 dated 25.3.2015 enclosed at Annexure-4 to the writ petition and with particular reference to the operative portion at paragraph 5 he submits that a conscious decision has been taken by the State Government in its Finance Department that all appointments made in different departments of the State Government in the Accounts Clerical Cadre since after 27.9.1999 whether on the post of Junior Accounts Clerk/Lower Division Accounts Clerk or Lower Division Clerk (Accounts) would be designated as Junior Accounts Clerk and would be entitled to a pay-scale of Rs.4000-6000/-with effect from 31.12.2005 and in the Pay Band-1 with grade pay of Rs.2400/- with effect from 1.1.2006. The said resolution further provides that such of the Junior Accounts Clerk on their promotion to the Senior Accounts Clerk would be entitled to pay-scale of Rs.4500-7000/- and with effect from 1.1.2006 in Pay Band-1 with grade pay of Rs.2800/-. Learned counsel has submitted that the resolution of the State Government was in the light of the orders passed by this Court on the issue of anomaly of pay-scale in the Accounts Clerk Cadre as manifest from paragraph 5(ii) which would squarely cover the case of these petitioners.

Mr. Shahi in reference to the pay-fixation statement present at Annexure-5 submits that it is in the light of the resolution of the Finance Department bearing no.3111 dated 25.3.2015 that the scales of the petitioners were revised but the happiness was short lived because the Building Construction Department in reference to the earlier decision of the Finance Department contained in letter No.531 dated 22.1.2003 has proceeded to hold that the appointment on compassionate ground could only be made on the post of Lower Division Clerk in the scale of Rs.3050-4590/- and thus the grant of pay-scale to the compassionate appointees in the scale of Rs.4000-6000/- with grade pay of Rs.2400/- was illegal. A decision was thus taken to revert the compassionate appointees to the post of Lower Division Clerk in the pay-scale of Rs.3050-4590/- and for recovery of the excess amount so paid to them. The order of the Building Construction Department bearing Memo No.4025 dated 15.5.2017 issued under the signature of the Additional Secretary is impugned at Anenxure-6 to the writ petition.

It is the argument of Mr. Shahi that the order of the Additional Secretary, Building Construction Department dated 15.5.2017 is unsustainable for it does not even make a reference to the decision of the State Government in its Finance Department dated 25.3.2015 placed at Annexure-4 which squarely applies to the case of the petitioners. It is the argument of Mr. Shahi that whatsoever was the dispute as regarding the grant of pay-scale to the appointees in the Accounts Clerk Cadre was put to rest in the State Government's resolution no.3111 dated 25.3.2015 and which position stands confirmed in the order of the Division Bench passed in LPA No.206 of 2014 which was an intra court appeal preferred by the State of Bihar along with the Finance Department, the Water Resources Department, the Rural Works Department and the other wings of the State Government. He submits that the Division Bench taking note of the resolution of the State Government dated 25.3.2015 has held that since benefit of the pay scales as per the resolution of the State Government bearing no.3111 dated 25.3.2015 extends to all the Accounts Clerks whether appointed on compassionate ground or otherwise, they are entitled to the benefits under the resolution. It is submitted that the opinion of the Division Bench stands confirmed by the Supreme Court when the Special Leave Petition preferred by the State of Bihar against the judgment and order passed in LPA No.206 of 2014 was dismissed on 10.2.2017. It is submitted that despite such confirmation of the legal position as to the claims advanced by the petitioners, yet the action of the authorities are an attempt to overreach the order of this Court.

The arguments advanced by Mr. Shahi has been adopted by other learned counsel appearing for the petitioners.

The arguments on behalf of the State as I have already mentioned was led by Mr. Ashok Kumar Dubey, learned Assisting Counsel to Additional Advocate General No.11 and who has practically argued from the counter affidavit filed on behalf of the Finance Department in CWJC No.9921 of 2017 to submit that the circular of 1991 and 2001 of the Finance Department was not considered by the Division Bench and thus the judgment would not be covering the cases of these petitioners. Learned counsel has referred to Annexure-E to the counter affidavit of the Finance Department filed in CWJC No.9921 of 2017 to submit that it clearly provides that a compassionate appointment cannot be made on a scale higher than the scale admissible for compassionate appointees i.e. 3050-4590/- and that in case any appointments were made on a higher scale then it should be reviewed and modified accordingly.

Learned counsel has next referred to paragraphs 11 and 12 of the counter affidavit of the Finance Department to submit that the revision in the pay-scale of Lower Division Clerk/Upper Division Clerk has been discussed. He submits that although the Clerical Cadre stood unified with effect from 1.4.1981 with single pay-scale of Rs.580-860/- admissible to a Upper Division Clerk. He submits that that the said scale was revised to Rs.1200-1800/- with effect from 1.1.986 and again revised to Rs.4000-6000/- with effect from 1.1.1996. It is subsequently vide letter no.6389 dated 28.9.1999 and letter no.8825 dated 20.12.2000 the cadre of the Clerk was again demerged as Lower Division Clerk and Upper Division Clerk with the pay-scale of Rs.3050-4590/- and Rs.4000-6000/- respectively. It is stated in reference to the circulars dated 28.9.1999 and 20.12.2000 placed at Annexures 'C' and 'D' to the counter affidavit of the Finance Department filed in CWJC No.9921 of 2017 that the compassionate appointees were eligible for appointment only on the post of Lower Division Clerk in the pay-scale of Rs.3050-4590/-.

In reference to the statement made in paragraph 15 of the counter affidavit he submits that the decision present in the resolution no.3111 dated 25.3.2015 was only in relation to those who were appointed directly through regular recruitment process in the Accounts Clerk Cadre but not those who were appointed on compassionate grounds. It is submitted that since these petitioners were appointed in a scale to which they were not entitled, the decision has been taken to rectify the error by assignment of the scale lawfully admissible to these petitioners and since they have drawn the salary which was not admissible to them, the excess amount is fit to be recovered.

Learned counsel in reference to the stand taken by the

Finance Department in the counter affidavit so filed in CWJC No.9921 of 2017 has submitted that since the issues were not placed before the Division Bench, the petitioners could not be accorded the benefit to which they are not lawfully entitled.

Since it is the same stand taken in the counter affidavits filed on behalf of the controlling departments and the Finance Department in the other writ petitions, practically endorse the same view as advanced by Mr. Dubey, the learned State Counsel appearing in the respective writ petitions, have adopted the arguments advanced by him.

I have heard learned counsel for the parties and I have perused the records.

My observations at the outset gets confirmed after hearing the parties and after examining the stand taken by the Finance Department in the counter affidavit, I am satisfied that the Principal Secretary, Finance Department speaking through the Under Secretary has exceeded his jurisdiction because the statements made in the counter affidavit filed on behalf of the Principal Secretary, Department of Finance borders on contempt. My impression is that either the Principal Secretary, Finance Department is not conversant with the judicial process and the binding nature of the judgment passed by the Courts or he is mesmerized in power. In either situation, whether it is on account of bankruptcy in the thought process or his failure to appreciate the legal position, I am of the opinion that he is not fit to occupy a sensitive post of Principal Secretary, Finance Department. I shall be dealing with the statement made in the counter affidavit filed on his behalf and which confirms plain arrogance and defiance to the position settled by this Court on the issue, as confirmed up to the Supreme Court.

Adverting to the matter in contest, the two cadres which are put to discussion is the normal Clerical Cadre consisting of Lower Division Clerk and the Upper Division Clerk and the Accounts Clerical Cadre. It is not in dispute that all the petitioners in this batch of writ petitions were appointed on compassionate grounds against different nomenclature of post in the Accounts Clerical Cadre viz. Junior Accounts Clerk/Lower Division Accounts Clerk/Lower Division Clerk (Accounts). The pleadings on record would reflect that prior to 1980 two categories of posts were existing in the Accounts Clerical Cadre namely, Junior Accounts Clerk and the Senior Accounts Clerk. The Finance Department's letter No.1876 dated 18.2.1981 addressed to the Accountant General, Bihar, Patna present at Annexure-3 to CWJC No.8726 of 2017 would confirm that with effect from 1.5.1980 the Accounts Clerical Cadre was unified to carry the pay-scale admissible to the Senior Accounts Clerk of Rs.260-408/- and the post was designated as Accounts Clerk. A similar decision was taken by the Finance Department vide letter no.5206 dated 24.5.1980 in so far as the normal clerical cadre is concerned, which carried a pay-scale of Rs.220-315/- for Lower Division Clerk and Rs.284-372/- for Upper Division Clerk which was unified to be designated as Clerk in the scale of Rs.284-372/- with effect from 1.5.1980 which is confirmed from the letter of the Finance Department dated 20.12.2000 present at Annexure R2/D of the counter affidavit of the Finance Department filed in CWJC No.8726 of 2017.

A plain reading of the Finance Department letter dated 18.2.1981 at Annexure-3 and letter dated 20.12.2000 at Annexure R2/D would show that two distinct decisions were taken to unify the Accounts Clerical Cadre as well as the normal Clerical Cadre, both effective from 1.5.1980. The Finance Department, as is manifest from the letters dated 28.9.1999 and 20.12.2000 present at Annexure 'C' and 'D' respectively to the counter affidavit filed in CWJC No.9921 of 2017, decided to de-merge the Clerical Cadre and which was made effective from 20.12.2000. This process of merger and de-merger led to a chain of litigations on the anomaly arising in respect of fixation of pay-scale and it is in view of the judgments and order passed by the Courts that the State Government in its Finance Department came out with a resolution bearing no.3111 dated 25.3.2015 containing the following decisions.

> “5. सम्यक विचारोपरांत कार्य विभागों के लेखा लिपिक संवर्ग के वेतनमान के संबंध में निम्नलिखित निणय लिया गया है:–
>
> (i) दिनांक 01/05/1980 से दिनांक 27/09/1999 की तिथि तक इस संवर्ग में नियुक्त कर्मी एकीकृत पदनाम “वरीय लेखा लिपिक” से अभिहित होंगे ऐसे लेखा लिपिक को दिनांक 01/04/1981 के प्रभाव से रु0 730–1080/–, दिनांक 01/01/1986 के प्रभाव से रु0 1400–2300/– दिनांक 01/01/1996 के प्रभाव से रु0 4500–7000/– तथा दिनांक 01/01/2006 के प्रभाव से पी0बी0–1 + 2800/– अनुमान्य होगा।
>
> (ii) दिनांक 28/09/1999 एवं उसक बाद की तिथियों में कार्य विभागों के लेखा लिपिक संवर्ग में कनीय लेखा लिपिक/निम्नवर्गीय लेखा लिपिक/निम्नवर्गीय लिपिक (लखा) के के पद पर नियुक्त कर्मी कनीय लेखा लिपिक के पदनाम से अभिहित होंगे तथा उन्हें दिनांक 31/12/2005 तक रु0 4000–6000/– तथा दिनांक 01/01/2006 से पी0बी0–1 + 2400/– का वेतनमान अनुमान्य होगा। वरीय लेखा लिपिक कोटि में प्रोन्नति के बाद उनका वेतनमान 4500–7000 तथा दिनांक 01.01.2006 के बाद पी0बी0 1 + 2800 रु0 अनुमान्य होगा।”

A plain reading of the resolution would show that the State Government taking note of the decision of the Finance Department which has been circulated vide letter no.6389 dated 28.9.1999, has classified the appointments in the Accounts Clerical Cadre in two categories. While category 1 consists of appointments made in between 1.5.1980 to 27.9.1999 the other relates to appointments made after 28.9.1999. Since the appointments of the petitioners herein are after 28.9.1999 hence the decision of the State Government as contained in the resolution dated 25.3.2015 at paragraph 5(ii) would be relevant for the issue and which inter alia, provides that all appointments made in different departments in the Accounts Clerical Cadre against the post of Junior Accounts Clerk/Lower Division Accounts Clerk/Lower Division Clerk (Accounts) would be designated as Junior Accounts Clerk and would be entitled to a pay-scale of Rs.4000-6000/- with effect from 31.12.2005 and to the scale in Pay Band-1 with grade pay of Rs.2400/- with effect from 1.1.2006. It further provides that on promotion to the post of Senior Accounts Clerk they would be entitled to the pay scale of Rs.4500-7000/- and in Pay Band-1 with grade pay of Rs.2800/- with effect from 1.1.2006 respectively.

There is absolutely no confusion in the resolution of the State Government bearing No. 3111 dated 25.3.2015 as regarding the pay-scales to which any person appointed in the Accounts Clerical Cadre would be entitled to, whether as a Junior Accounts Clerk or Lower Division Accounts Clerk or a Lower Division Clerk (Accounts). In fact it is following this resolution of the State Government in its Finance Department, that pay fixation have also taken place.

The resolution of the State dated 25.3.2015 is not without reason rather is the consequence of orders passed by this Court.

In fact a similar attempt was earlier made by the State Government in its Finance Department to deny the scale admissible to the similarly placed Clerks in the Accounts Cadre, that they moved this Court in CWJC No.12124 of 2011 (**Ram Janam Jha Vs. The State of Bihar and others**). A coordinate Bench in consideration of the arguments advanced by the parties on the Finance Department's circular dated 3.8.2010 which was put to challenge before the Bench impugned at Annexure-8 to the writ petition and taking note of the various orders passed by the Court, held as follows:

> "In view of the aforesaid and in view of the fact that impugned Annexure 8 has already been set aside by this Court, as admitted in the counter affidavit itself, I have no option but to allow this writ petition and set aside Annexure 8 and all consequential actions thereto. In other words, petitioners would be treated as Accounts Clerk throughout with all consequential benefits. Their pay scales are not liable to be refixed nor any recovery is permissible much less after their retirement. The order, as appended in the interlocutory application directing recovery of money, has, thus, to be set aside and any money already recovered on this account has to be refunded to the petitioners forthwith. Petitioners would be entitled to be paid on basis of Accounts Clerk and their retiral dues also to be calculated accordingly.
>
> The writ petition, with the aforesaid

observations and directions, is allowed."

The State respondents which included the Principal Secretary, Finance Department, the Principal Secretary, Water Resources Department, the Principal Secretary, Rural Works Department and other officials of the State Government, not being satisfied, preferred an intra court appeal giving rise to LPA No.206 of 2014 and it is while the matter was pending that the State passed the resolution dated 25.3.2015, finally setting the issues at rest. I am persuaded to reproduce the opinion of the Division Bench in consideration of the claim of the petitioners of the said case and which would squarely be applicable to the contest raised herein:

> "During the pendency of the present Letters Patent Appeal, the question of pay revision has been examined by the State Government in its resolution No.3A-1-Muk.-19/2013-3111(V) dated 25.3.2015. As per the said resolution, it transpires that pay scale of the Junior Accounts Clerk and that of Senior Accounts Clerk were merged with effect from 01.05.1980 and was given pay scale of Rs.260-408/-. But subsequently, there was anomaly in granting revised pay scale consequent to recommendation of the 4th, 5th and 6th Pay Commission. The State Government has now decided that all Accounts Clerks shall be given pay scale meant for the Senior Accounts Clerk.
>
> Learned counsel for the appellant argued that the said benefit is not available to the candidates who were appointed on compassionate grounds.
>
> We find that once the distinction between the Junior and Senior Accounts Clerk has been done away with and that all Accounts Clerks have been granted pay scale as that of Senior Accounts Clerk, therefore, all Accounts Clerks, whether appointed on compassionate ground or otherwise are entitled to

> same pay scale i.e. pay scale meant for the Senior Accounts Clerk.
>
> In view of the said fact, we do not find any merit in the present Letters Patent Appeal. The same stands dismissed."
>
> (Emphasis is mine)

I need to clarify here that in the case of **Ram Janam Jha** (supra) the Division Bench has expressed their opinion while considering the claim of the Account Clerks covered under Clause 5(i) of the resolution dated 25.3.2015.

The State yet not satisfied, moved the Supreme Court in **S.L.P. (Civil) No. 2982 of 2017 (State of Bihar and others vs. Ram Janam Jha and others)** and which was dismissed by the Supreme Court vide judgment and order passed on 10.2.2017 finding no grounds to interfere with the impugned judgment.

The conduct of the Finance Department can well be understood from the fact that even when their appeal was pending consideration before this Court in LPA No.206 of 2014 and even though the State Government in its resolution bearing no.3111 dated 25.3.2015 had clarified as to the admissibility of the pay-scales in question to the Accounts Clerical Cadre but simply with a view to pre-empt the decision that in the process to clarify the resolution of the State Government dated 25.3.2015, the Principal Secretary, Finance Department without any authority in law, has given a restricted interpretation to the said resolution of the State

Government by holding that the resolution was only applicable to those appointed after facing a regular recruitment process and not those who were appointed on compassionate grounds.

Clearly the Principal Secretary, Finance Department has exceeded his brief for he has no business to give a restrictive interpretation to a resolution of the State Government which made no such classification in between those who were appointed through direct recruitment with those appointed on compassionate grounds. A copy of such advisory dated 11.7.2016 issued by the Finance Department is placed on record vide Annexure A to the counter affidavit filed on behalf of the Building Construction Department in CWJC No.9921 of 2017. It is following such confusion created by the artificial classification of the Accounts Clerical Cadre that has led to the passing of the order(s) impugned in different writ petitions by treating the appointees on compassionate ground forming a distinct class than those appointed by facing regular recruitment process.

In my opinion whatsoever confusion may have been prevailing in the mind of the respondents especially the Principal Secretary, Finance Department, was put to rest by the judgment of the Single Judge in CWJC No.12124 of 2011 as confirmed by the Division Bench in its judgment and order dated 24.8.2016 passed in LPA No.206 of 2014 in reference to the resolution of the State Government bearing no.3111 dated 25.3.2015 which view was confirmed by the Supreme Court when the Special Leave Petition of the State Government was dismissed. It is pathetic that despite the legal position having been settled and all disputes put to rest yet the State in its routine habit of generating litigation with the Finance Department taking the lead, the advisory dated 11.7.2016 put under challenge, was issued and resultantly the impugned orders have been passed by the Controlling departments of the petitioners completely oblivious of the earlier resolution of the State Government dated 25.3.2015 as well as the legal position settled by this Court as affirmed until the Supreme Court.

The contemptuous conduct of the Principal Secretary, Finance Department can be gathered from the statement made by him in the counter affidavit(s) so filed in the proceedings and for the purpose I would be referring to the counter affidavit filed on behalf of the Principal Secretary, Finance Department filed in CWJC No.9921 of 2017 in so far as it responds to the plea of the petitioners on the reduction of pay scale in reference to the judgment of this Court in the case of **Ram Janam Jha** (supra) and on the order for recovery for which the petitioners rely upon the judgment of the Supreme Court rendered in the case of **State of Punjab Vs. Rafiq Masih** reported in **(2015)4 SCC 334**.

In so far as the issue of reduction of pay scale is concerned, the utterance made by the Principal Secretary, Finance Department in paragraph 20 of the counter affidavit is a confirmation of his absolute lack of knowledge about the system of judicial dispensation as well as the binding effect of the judgments. In the opinion of the Principal Secretary, Finance Department, the judgment of the Division Bench in **LPA No.206 of 2014 (State vs. Ram Janam Jha)** is *per incuriam* because it has failed to take note of the policy decision of the State Government on the issue of compassionate appointment as well as the land mark decisions on the issue. The vacuous arrogance of the Principal Secretary, Finance Department is eloquent from the statement made in paragraph 20 of the counter affidavit which runs under:

> "20. That so far providing parity to the petitioners with the writ petitioners of CWJC No.12124 of 2011 is concerned, it is evident from perusal of order dated 06.08.2013 passed in CWJC o.12124 of 2011 (Ram Janam Jha & Ors. Vs. The State of Bihar & Ors.), as well as order dated 24.08.2016 passed in L.P.A. No.206 of 2014 (The State of Bihar & Ors. Vs. Ramjaam Jha & Ors) that there is no consideration of policy decision with regard to compassionate appointment or their pay scale issued by the Government time to time or land mark decisions referred in above paragraphs. Hence the said judgment is per incuriam so, the petitioners cannot be permitted to take advantage of said judgment. Moreover, the core issue in said judgments with respect to merger and demerger of Account Clerk Cadre and is pay scale in which the Division Bench in L.P.A. No.206 of 2014 was pleased to hold that once the distinction between the Junior and Senior Accounts Clerk has been done away with and that all Accounts Clerks have been

> granted pay scale as that of Senior Account Clerk, therefore, all accounts clerks, whether appointed on compassionate ground or otherwise are entitled to same pay scale i.e. pay scale meant of the Senior Account Clerk. In the said judgments, there is no adjudication on the point as to whether on the post of account clerk and in the pay scale of account clerk, compassionate appointment is permissible or not in accordance with policy decision of Government."
>
> (Emphasis is mine)

As I have already observed neither does the Principal Secretary, Finance Department has the minimal understanding of the legal process nor does he understand the meaning of the term '*per incuriam'* and whether an executive who is bound by the judgment of the High Court can declare it *per incuriam* for avoiding its application to others similarly placed.

Per incuriam has been a subject matter of discussion in a catena of judgments and to name few, the Supreme Court in the case of **A.R. Antulay vs. R.S. Nayak** since reported in **(1988)2 SCC 602** has observed thus in paragraph 42 of the judgment:

> "42. ….. '*Per incuriam'* are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong".

The Constitution Bench in a case reported in **(1990)3 SCC 682** (**Punjab Land Development & Reclamation Corporation Ltd. Vs. Labour Court**) while dealing with the issue of *per incuriam* opined as under:

> "40. ... The Latin expression '*per incuriam*' means through inadvertence. A decision can be said generally to be given per incuriam when this Court has acted in ignorance of a previous decision of its own or when a High Court has acted in ignorance of a decision of this Court"

The Supreme Court in the case of Government of **A.P. vs. B. Satyanarayana Rao** reported in **(2000)4 SCC page 262** has observed in paragraph 8 as under:

> "8. … The rule of *per incuriam* can be applied where a court omits to consider a binding precedent of the same court or the superior court rendered on the same issue or where a court omits to consider any statute while deciding that issue."

In view of the opinion expressed by the Courts as to what would constitute *per incuriam*, I can only say that the Principal Secretary, Department of Finance has shown utter ignorance and contempt in using the term completely out of context without realizing the damage done by him. Apart from the fact that the Principal Secretary, Finance Department is too low down in the hierarchy ladder of adjudicatory process to hold a judgment of the High Court, *per incuriam*, it is preposterous that having lost the challenge until the Supreme Court, the Principal Secretary, Finance, is not willing to accept the legal position.

The opinion of the Division Bench as to the entitlement of the compassionate appointees, as expressed in the case of **Ram**

Janam Jha (supra) rests on the decision of the State Government as present in the resolution bearing no.3111 dated 25.3.2015. Now if, the respondent State including the Finance Department, has failed to satisfy either the Division Bench of this Court or the Supreme Court as to the distinct nature of appointment of the compassionate appointees qua the regular appointees, for denying the benefit, they cannot be permitted to start a second round litigation by resorting to indisciplined utterances. The knowledge of the Principal Secretary, Finance Department as to the binding nature of the judgments and orders of the Court(s) is alarmingly deficient.

Reference in this regard is made to the Constitution Bench judgment of the Supreme Court passed in the case of **M.S.M. Sharma vs. Shree Krishna Sinha** reported in **AIR 1960 SC 1186** , the Constitution Bench judgment of the Supreme Court reported in **AIR 1961 SC 1457 (Daryao vs. State of U.P.)** and the judgment of the Supreme Court rendered in the case of **Supreme Court Employees Welfare Association vs. Union of India** since reported in **AIR 1990 SC 334** to remind the Principal Secretary, Finance Department that a party to a decision cannot be permitted to reopen a concluded issue on grounds that certain issues which could have been raised by the department, were either not raised or has escaped the notice of the Bench. Law is well settled and any issue finally decided between the parties cannot be permitted to be reopened at the instance of either of the parties, inter alia, on grounds of deficient reasoning or any other grounds, on the principle of *res-judicata* which equally applies to writ proceedings.

Similar is the position as regarding the stand taken by the Principal Secretary, Finance Department on the issue of recovery when on a complete mis-appreciation of the binding nature of directions issued by the Supreme Court in the case of **Rafiq Masih** (supra) as present in paragraph 18 of the judgment, he has adventurously chosen to hold the directions so issued by the Supreme Court as one under Article 142 of the Constitution of India and thus not constituting a binding precedent. The statement made by him to reject the reliance of the petitioners on the judgment of Rafiq Masih (supra) and to proceed for recovery, is pathetic as also contemptuous and runs under:

> "19. That it is relevant to submit here that the Hon'ble three Judges of Supreme Court was pleased to affirm the law laid down in case of Chandi Prasad Uninyal and others (supra) in case of the State of Punjab & others vs. Rafiq Masih (whitewasher) (supra) holding therein that the principle laid down in case of Chandi Prasad Uninyal is binding precedence under Article 141 of the Constitution of India. Article 136 of Constitution of India is a corrective jurisdiction that vests the direction in the Supreme Court to settle the law clearly and makes the law operational to make it binding precedent for future instead of keeping it in vague in short, it declares the law as under Article 141 of the Constitution of India while directions issued under Article 142 for any cause or matter in particular facts and circumstances thereof cannot be considered as law laid down by the Hon'ble

Supreme Court."

Apart from the fact that the issue whether or not the compassionate appointees in the Accounts Clerical Cadre would be entitled to the scale admissible under resolution dated 25.3.2015 of the State Government, can neither be reopened in a collateral proceedings nor can be a subject-matter of discussion in view of the legal position so settled in the case of **Ram Janam Jha** (supra), even otherwise, the opinion of the Principal Secretary, Finance Department is in utter ignorance of the facts on record. It is the stand of the Principal Secretary of the Finance Department that these petitioners could not have been appointed in the Accounts Clerical cadre on compassionate grounds because in terms of the circular of the Personnel and Administrative Reforms Department dated 5.10.1991 as reiterated in their circular dated 20.6.2001 present at Annexures 'A' and 'B' to the counter affidavit of the Finance Department filed in CWJC No.9921 of 2017, the petitioners could only be appointed as a Lower Division Clerk and not in the Accounts Clerical Cadre.

In my opinion the impression gathered by the Principal Secretary of the Finance Department is de-hors the circulars on record for neither the circular dated 5.10.1991 puts any such restrictions on compassionate appointment in the Accounts Clerical Cadre nor the position is any different in the subsequent circular dated 20.6.2001 except that it has been clarified that the replacement scale of Rs.1200-1800/- in so far as the Lower Division Clerk is concerned would be Rs.3050-4590/-.

Clause 8(क) of the circular dated 5.10.1991 of the Department of Personnel and Administrative Reforms simply provides that appointment on compassionate ground can be made on any Class IV post or any Class III post carrying a pay-scale of Rs.1200-1800/-. The provision nowhere stipulates that appointment could only be made on Class III post of Lower Division Clerk and not in the Accounts Clerical Cadre. The Principal Secretary, Finance Department is again ignorant of the fact that just as the Lower Division Clerk carried a scale of Rs.1200-1800/-, in a similar manner the post of Lower Division Accounts Clerk also carried the same pay-scale of Rs.1200-1800/- with effect from 1.1.1986 as manifest from the Finance Department letter dated 22.1.2003 present at Annexure- 'E' of the same counter affidavit. Meaning thereby the scales of the Lower Division Clerk and the Lower Division Accounts Clerk as on 1.1.1986 was the same, although subsequently revised in a different manner.

It is not in dispute that although these petitioners were appointed as against different post in the accounts clerical cadre, they were put in the scale of Rs.3050-4590/- which was the replacement scale of a Lower Division Clerk and not the replacement scale of the Junior Accounts Clerk. It is because the rightful scale was being denied to some of those who were appointed in the Accounts Clerical Cadre at the instance of the Department of Finance in relying upon the recommendations of the 4th, 5th and 6th Pay Commission that they were forced to come before this Court in CWJC No.12124 of 2011 **(Ram Janam Jha & others vs. State of Bihar**) and their claim was upheld which judgment was confirmed by the Division Bench as well as the Supreme Court. In fact the State Government taking note of the anomaly in the backdrop of the judgments passed on the issue, has passed the resolution dated 25.3.2015 present at Annexure P/4 allowing all the appointees against different posts in the Accounts Clerical Cadre, after 28.9.1999, the pay-scale of Rs.4000-6000/- with effect from 31.12.2005 and in Pay Band 1 with grade pay of Rs.2400/- with effect from 1.1.2006. On promotion to the post of Senior Accounts Clerks, these appointees were found entitled to the scale of Rs.4500-7000/- and with effect from 1.1.2006 in Pay Band 1 with grade pay of Rs.2800/-.

The resolution of the State Government dated 25.3.2015 takes note of every transition taken place on the issue of merger and de-merger as well as the pay-scale attached to the post as revised from time to time. Now even when no classification has been made by the State Government in between the regular appointees and those appointed on compassionate ground in their resolution dated 25.3.2015 such distinction is sought to be created by the Principal Secretary, Finance Department in his letter dated 11.7.2016 present at Annexure 'A' to the counter affidavit of the Building Construction Department filed in CWJC No.9921 of 2017 which is a clear case of overreach by the Principal Secretary of the Finance Department to the resolution of the State Government and since it is in the teeth of the opinion expressed by the Division Bench, it is rendered unsustainable.

It is a perpetuation of illegality where the controlling department of the petitioners blindly following the directives of the Principal Secretary of the Finance Department present in his order bearing Memo No.5843 dated 11.7.2016, have proceeded to re-designate these petitioners as lower division clerk in the scale of Rs.3050-4590/- from the date of their initial appointment and to recover the excess salary drawn by them by virtue of implementation of the resolution bearing no.3111 dated 25.3.2015.

In view of the clear stipulation so present in the resolution of the State Government bearing no.3111 dated 25.3.2015 present at Annexure 4 which has been referred to by the Division Bench in the case of **Ram Janam Jha** (supra) to uphold the claim of the compassionate appointees, the directives issued by the Principal Secretary of the Finance Department as contained in order no.5843 dated 11.7.2016 is not only contrary to the State Government's decision but also is in the teeth of the judicial pronouncement of this Court and is accordingly quashed and set aside.

The petitioners having been appointed against different posts in the accounts clerical cadre post after 28.9.1999 they are fully covered under the resolution of the State Government dated 25.3.2015 as also under the judgment of this Court as affirmed by the Supreme Court.

In result, the order bearing Memo No.638 dated 8.6.2017 impugned at Annexure P/5 in CWJC No.9921 of 2017;

the order bearing Memo No.629 dated 10.4.2017 impugned at Annexure P/5 in CWJC No.9745 of 2017;

the order bearing Memo No.12402 dated 2.11.2016 impugned at Annexure-5 in CWJC No.19392 of 2016;

the order bearing No.746 dated 28.10.2016 impugned at Annexure 7 and the consequential order dated 16.11.2016 impugned at Annexure-8 in CWJC No.1679 of 2017;

the order bearing Memo No.398 dated 13.4.2016 impugned at Annexure 19 and the order bearing Memo No.733 dated 8.11.2014 impugned at Annexure 1/4 in CWJC No.8538 of 2016;

the order bearing Memo No.629 dated 10.4.2017 impugned at Annexure P/5 and 5 respectively in CWJC No.7597 of 2017 and CWJC No.7027 of 2017;

the order dated bearing Memo No.12402 dated 2.11.2016 of the Additional Secretary, Rural Works Department impugned at Annexures 1, 5 and 1 respectively in CWJC No.19506 of 2016, CWJC No.8031 of 2017 and CWJC No.1276 of 2017; and

the order bearing Memo No.4025 dated 15.5.2017 impugned at Annexure 6 in CWJC No.8726 of 2017, resting on such advisory of the Principal Secretary of the Finance Department dated 11.7.2016 which is contrary to the State Government's resolution dated 25.3.2015 as well as the judgment of this Court, are accordingly held illegal and are quashed and set aside.

The petitioners are restored to their respective post together with pay-scale attached thereto and any recovery made from the petitioners should be refunded to them within three months from the date of receipt/production of a copy of this judgment. In case any arrears of salary is due to the petitioners as against the post held by them in the Accounts Clerical Cadre, the same should also be paid to them within three months from the date of receipt/production of a copy of this judgment.

The writ petitions are allowed and in the nature of resistance put up by the Finance Department despite the resolution of the State Government dated 25.3.2015 and the judgment of this

Court in the case of **Ram Janam Jha** (supra), I impose a cost of Rs.5,00,000/- (Five lacs) to be deposited by the State through the Chief Secretary in the Patna High Court Legal Aid Committee, Patna within 3 months from today. The State in turn would be at liberty to recover the said amount from all those found responsible for inviting such a cost by engaging its employees in protracted unwarranted litigation.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25-09-2017
Transmission Date	NA