IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5765 of 2006

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1. Anil Kumar, son of Late Sheo Dutta Singh, resident of 20, BSIDC Colony, Boring Road, P.S.-Patliputra, Patna-13
2. Upendra Prasad, son of Late Chotu Prasad, resident of Makhdumpur, P.O.-Bishunganj, District-Jehanabad
3. Mahendra Lal Das, son of Late Sukhdeo Lal Das, Accountant, Bhagalpur Treasury, Bhagalpur
4. Bipin Kumar Mishra, son of Baikuntha Mishra, Accountant, Bhagalpur Treasury, Bhagalpur
5. Ram Chandra Jha, son of Sri B.Jha, Accountant, Bhagalpur University, Bhagalpur
6. Shrawan Kumar Pathak, son of Bishnupad Pathak, Accountant, Gaya Treasury, Gaya
7. Ravindra Prasad, son of Late Ram Ishwar Singh, Accountant, Buxar Treasury, Buxar
8. Parma Nand Srivastava, son of Late Bipin Bihari Srivastava, Accountant, Buxar Treasury, Buxar
9. Baidya Nath Gupta, son of Late Krishna Murari Gupta, Accountant, Buxar Treasury, Buxar
10. Girish Chandra Jha, son of Tej Narayan Jha, Accountant, Bhabhua Treasury, Bhabhua, Kaimur
11. Mahabir Prasad Singh, son of Late Ram Chandra Singh, Accountant, Muzaffarpur Treasury, Muzaffarpur
12. Anand Prakash Kujur, son of Sri Niekolas Kujur, Accountant, Muzaffarpur Treasury, Muzaffarpur
13. Ram Pravesh Singh, son of Late Ram Sakal Singh, Accountant, Muzaffarpur Treasury, Muzaffarpur
14. Sanjay Kumar Singh, son of Late Brajendra Singh, Accountant, Muzaffarpur Treasury, Muzaffarpur
15. Siya Ram Paswan, son of Late Gobind Paswan, Accountant, Nirman Bhawan Treasury, Patna
16. Dadan Prasad, son of Late Ram Nath Prasad, Accountant, Khagaria Treasury, Khagaria
17. Binod Kumar, son of Late Daya Nand Prasad, Accountant, Khagaria Treasury, Khagaria
18. Bal Mukund Sinha, son of Haridwar Sinha, Accountant, Darbhanga Treasury, Darbhanga
19. Awadhesh Kumar Verma, son of Late Baidyanath Prasad, Accountant, Darbhanga Treasury, Darbhanga
20. Altaf Ahmad, son of Late Mushtaque Ahmad, Accountant, Darbhanga Treasury, Darbhanga
21. Binod Prasad, son of late Ram Chandra Prasad, Accountant, Darbhanga Treasury, Darbhanga
22. Upendra Prasad Singh, son of Mathura Prasad Singh, Accountant, Sub-Treasury, Masaurhi, Patna
23. Prabodh Jha, son of Mahendra Jha, Accountant, Rohtas Treasury, Sasaram
24. Ram Bilas Jha, son of Late Madan Mohan Jha, Accountant, Rohtas

Treasury, Sasaram

25. Arup Kumar Mukherjee, son of Late J.N. Mukherjee, Accountant, Rohtas Treasury, Sasaram
26. Md. Shamsher Alam, son of Late Hafiz Md. Sharfuddin, Accountant, Rohtas Treasury, Sasaram
27. Mithilesh Kumar Das, son of Late Nand Kishore Das, Accountant, Nawadah Treasury, Nawadah
28. Vijay Kumar Gupta, son of Late Mauji Lal, Accountant, Madhubani Treasury, Madhubani
29. Dinesh Jha, son of Late Rohit Narayan Jha, Accountant, Gaya Treasury, Gaya
30. Chandra Deo Jha, son of Late Dhaneshwar Jha, Accountant, Gaya Treasury, Gaya
31. Kishore Kumar Choudhary, son of Late Bijay Kant Choudhary, Accountant, Gaya Treasury, Gaya
32. Akhilesh Prasad, so nof Late Mitra Narayan Das, Accountant, Gaya Treasury, Gaya
33. Dharma Deo Raut, son of late Jagarnath Raut, Accountant, Begusarai Treasury, Begusarai
34. Abbas Khan, son of Late Ramjan Khan, Accountant, Patna Treasury, Patna
35. Mahesh Kumar Mahto, son of Late Parmeshwar Mahto, Accountant, Patna Treasury, Patna
36. Shambhu Nath Mishra, son of Late Bhairaw Dutta Mishra, Accountant, Patna Treasury, Patna
37. Syed Ibne Haider, son of Syed Anisul Hasan, Accountant, Muzaffarpur Treasury, Muzaffarpur
38. Paras Lal, son of Hari Nandan Baitha, Accountant, Gopalganj Treasury, Gopalganj
39. Amal Kumar Choudhary, son of Jagdish Kumar, son of Jagdish Kumar Choudhary, Accountant Katihar Treasury, Katihar
40. Bindeshwar Prasad, son of Late Bali Ram, Accountant, Katihar Treasury, Katihar
41. Arvind Kumar, son of Late Sheo Paswan, Accountant, Katihar Treasury, Katihar
42. Suraj Kumar, son of Late Panna Lal Vishwakarma, Accountant, Katihar Treasury, Katihar
43. Mohammad Tasleem, son of Late Raqueemuddin, Accountant, Katihar Treasury, Katihar
44. Rajesh Kumar, son of Suresh Prasad, Accountant, Purnea Treasury, Purnea
45. Binod Kumar Srivastava, son of Ram Nandan Sahay, Accountant, Purnea Treasury, Purnea
46. Murlidhar Mishra, son of Late Surya Nandan Mishra, Accountant, Purnea Treasury, Purnea
47. Mahesh Paul Kerketta, son of Late Cyril Kerketta, Accountant, Purnea Treasury, Purnea
48. Ram Lagan Ram, son of Ramadhar Ram, Accountant, Siwan Treasury, Siwan
49. Rajendra Kumar, son of Late Anantu Ram, Accountant, Siwan Treasury, Siwan
50. Pradeep Kumar Sinha, son of Late Kandhji Sahay, Accountant, District Treasury, Samastipur

…. …. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary to the Government of Bihar, Old Secretariat, Patna
2. The Commissioner-cum-Secretary, Finance Department, Govt of Bihar, Old Secretariat, Patna
3. The Secretary, Cabinet Secretariat and Co-ordination Department, Government of Bihar, Old Secretariat, Patna
4. The Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Old Secretariat, Patna
5. The Additional Finance Commissioner(Expenditure), Finance Department, Govt. of Bihar, Old Secretariat, Patna
6. Joint Secretary to Government, Finance Department, Government of Bihar, Patna
7. Deputy Secretary, Finance Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sitesh Chandra Mitra, Advocate
Mr. Shri Krishna Sinha, Advocate

For the Respondent/s : Mr. (GA2)

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 21-09-2017

The petitioners herein who were observed in the service of various Corporations have filed this writ petition seeking quashing of a Cabinet decision contained in Memorandum No. 7128 dated 30th of December, 2005 and claiming various benefits.

Claiming similar benefits and challenging the same Memorandum, writ petitions were filed before this Court being C.W.J.C. No. 3890 of 2006 and C.W.J.C. No. 3890 of 2006 and all these cases were decided by a common order wherein the writ petitions were allowed in part and learned Writ Court granted certain reliefs to the employees directing for their absorption against the post of Upper Division Clerk in corresponding pay scale. Challenging the order passed in the Writ Petition, L.P.A. No. 908 of 2006 and LPA No. 963 of 2006 were filed before a Division Bench of this Court, and therefore, when the matter came up for hearing on 15.05.2007, this Court directed for listing of the matter after both these L.P.A being L.P.A. No. 908 of 2006 and L.P.A. No. 963 of 2006 are decided.

The office has placed on record the orders passed by a Division Bench of this Court in both these L.P.A. i.e. L.P.A. No. 908 of 2006 and L.P.A. No. 963 of 2006 on 29.06.2015 and on a perusal of the aforesaid order passed by the Division Bench goes to show that in para 10 of the order, the Division Bench has upheld the judgment passed by the Single Judge and from para 10 onwards the following orders have been passed by the Division Bench.

> *"10.The learned single Judge granted certain reliefs, such as, that the absorption shall be against the post of Upper Division Clerk, with corresponding scale of pay, and that pay protection shall be ensured.*
>
> *11. The principal contention advanced in these appeals is that had the order of absorption been passed in the year 2005, the appellants would have become eligible for pension.*
>
> *12. It is important to note here that nowhere in their writ petitions the appellants herein made any grievance that the delay in issuing the order of absorption has*

resulted in denial of pension to them. The same was not put in issue, at all. Therefore, we do not take the plea of the appellants, in this regard into account. The learned single Judge has taken into account all the correspondences that ensued in relation to the matter and felt that the appellants cannot insist that they must be absorbed in the Treasury Department alone. We are in agreement with the findings made in the writ petitions.

13. In the present appeals certain important developments have taken place. Through its order dated 24-4-2007 the Government has withdrawn the proceeding dated 8-3-2006 in their entirety. In the year 2010 some aspect of the absorption was restored. However, these developments are not subject matter of these proceedings. If the appellants feel that the subsequent resolutions are detrimental to them, it shall be open to them to work out their remedies.

14. We, therefore, uphold the order of the learned single Judge and dismiss the appeals, but leave it open to the appellants to work out their remedies in case any order passed during the pendency of the appeals has resulted in detriment to them."

As the petitioners are also entitled for similar benefits, it is directed that benefits of absorption of pay scale and pay protection as directed in C.W.J.C. No. 3890 of 2006 and C.W.J.C. No. 3809 of 2006 shall be granted to the petitioners with further benefits accruing to them and liberty available in pursuance to the order passed on 29.06.2015 by the Division Bench in L.P.A. No. 908 of 2006 and L.P.A. No. 963 of 2006.

With the aforesaid the Writ Petition stands allowed and disposed of.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03/10/2017
Transmission Date	NA