

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.795 of 2011
IN
Civil Writ Jurisdiction Case No. 14475 of 2005**

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1. The State Of Bihar through the Chief Secretary, Main Secretariate, Patna.
 2. The Commissioner-Cum-Secretary, Finance Department, Govt. Of Bihar, Main Secretariate, Patna.
 3. The Commissioner-Cum-Secretary, Animal Husbandary and Fisheries Department, New Secretariate, Vikas Bhawan, Patna.
 4. The Director, Animal Husbandary and Fisheries Department, New Secretariat, Vikas Bhawan, Patna.

.... Appellant/s

Versus

1. Dr. Md. Usman, son of Late Md. Wasi Ahmad, Resident Of Fasahat-Ka-Maidan, Near Masjid, Patna City, P.S. Patna City Town District-Patna.
2. Dr. Samrendra Narain Singh, Son Of Late Jamuna Prasad Singh, Resident Of Boop Narain Singh Colony, Ward No. 16, P.S. Madhubani, District-Madhubani.
3. Dr. Rabindra Narain Singh, Son Of Late Ram Lakhan Singh, Resident Of Daud-Bigha, P.S. Agam Kuan, District-Patna.
4. Dr. Brahdeo Prasad, Son Of Late Munsidayal, Resident Of Mohalla-Bhojpur Colony New Bypass Road, Near Ram Lakhan Path, Jiya Darpan, P.S. Lohia Nagar Town, District-Patna.
5. Dr. Gopal Prasad Srivastava, Son Of Late Nag Nr. Prasad, Resident Of Plot No.8-A/12 Bahadurpur, Housing Colony, P.S. Agam Kuan Town, District-Patna.
6. Dr. Parmanand Kumar, Son Of Lateawadh Bihari Kumar, Resident Of Kumar Kunj, New Area Parbatti, P.S. Parbatti, District-Bhagalpur.
7. Dr. Deo Nandan Prasad Singh, Son Of Late Kashi Prasad, Resident Of Village Vishiria, P.S. Fatuha, District-Patna.
8. Dr. Ekbal Muzaffar Shabnam, Son Of Late Md. Zahiruddin, Resident Of Kabir Colony, Zakir Nagar (East), P.S. Jamshedpur, District-Si-Nghbhum (East), Jharkhand.
9. Dr. M. Shafi Alam, Son Of Late Mahmood Alam, Resident Of Behind Hai Hospital Samanpura Town, District-Patna.
10. Dr. Rabindra Nath Sinha, Son Of Late Demodar Prasad Sinha, Resident Of Village-Baharawan, P.S. Barh, District-Path.
11. Dr. Surendra Prasad Sinha, Son Of Late Sheo Nandan Sinha, Resident Of A/218 P.C. Colony, P.S. Kankarbagh Town, District Patna.
12. Dr. Sita Bharan Sinha, Son Of Late Mangal Prasad Sinha, Resident Of Yogipur Road, Hilsa, P.S. Hilsa, District-Nalanda.
13. Dr. Lall Bihari Pd. Sinha, Son Of Late Ram Nandan Prasad, Resident Of Chamakya Nagar, P.S.-Agam Kuan, Town District-Patna.
14. Dr. Md. Quissimuddin, Son Of Late Md. Sharfuddin, Resident Of Ekkil Dharah, P.S. Tehta, District-Jehanabad.
15. Dr. Ambika Pratap Singh, Son Of Late Birendra Pratap Singh, Resident Of B/17 People Corporation Colony, Kankarbagh, P.S. Kankarbagh, Town District-Patna.
16. Dr. Md. Ashraful Haque, Son Of Late Jasimed Haque, Resident Of Village-Chanuruddin Tola Maaniarpur, P.S. Mukatarpur, District-Samastipur.
17. Dr. Sheh Md. Khelalal Hussain, Resident Of Village Mohiutachak P.S.



Habibpur, Distirct-Bhagalpur.

18. Dr. Alam Kumar Mallick, Son Of Late Md. Balani Akhtar Mallick, Resident Of Islam Nagar Gumati No.3 Bhikkanpura, P.S. Khanjampur, District-Bhagalpur.
19. Dr. Vijay Nandan Singh, Son Of Late Lakshmi Singh, Resident Of Village-Mai. P.S. Hilas, District-Nalanda.
20. Dr. Satish Chandra Chaudhary, Son Of Late Chamo Chaudhary, Resident Of Village Barhat, P.S. Barhat, Distirct-Banka.
21. Dr. Shree Krishna Sinha, Son Of Late Raj Kumar Sinha, Resident Of A/132, P.C. Colony, Kankarbagh, P.S. Kankarbagh, Town District-Patna.
22. Dr. Pramod Ranjan Sinha, Son Of Late Tej Narain Prasad, Resident Of Ashok Nagar, Road No. 3, P.S. Kankarbagh, Town And District-Patna.
23. Dr. Rangnath Singh, Son Of Late Gobardhan Singh, Resident Of Mohalla-Navada, P.S. Arrah Nawada, District-Bhojpur.
24. Dr. Sushil Jha, Son Of Late Pt. Shankar Jha, Resident Of Village-Maghauli, P.S. Sakari, District-Madhubani.
25. Dr. Krishna Chandra Jha, Son Of Late Shree Nandan Jha, Resident Of Village-Bra-Hmottara, P.S. Pandaul, Distirct-Madhubani.
26. Th Accountant General, Bihar, Birchand Patel Path, Patna.

.... Respondent/s

With

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Letters Patent Appeal No. 871 of 2014
IN
Civil Writ Jurisdiction Case No. 7293 of 2012

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1. The State Of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Department, Vikash Bhawan, Patna.
2. The Special Secretary, Animal Husbandry and Fisheries Department, Vikash Bhawan, Patna.
3. The Director, Animal Husbandry and Fisheries Department, Vikash Bhawan, Patna.
4. The Principal Secretary, Finance Department, Govt. of Bihar, Main Secretariat, Patna.

.... Respondents-Appellant/s

Versus

1. Dr. Bharat Jee Gupta, son of late Tek Narain Lal, Resident of Bans Kothi Compound, D. N. Das Lane, Langer Toli, P.S.- Kadam Kuan, District-Patna.
2. The Accountant General, Bihar, Birchand Patel Path, Patna.

.... Petitioner-Respondent/s

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Appearance :

For the Appellant/s : Mr. R. S. Singh, AC to AAG-7

For the Respondent/s : Mr. R. N. Mukhopadhyay, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date: 29-06-2017

Seeking exception to an order dated 29.11.2010 passed in Civil Writ Jurisdiction Case No.14475 of 2005 and order dated 21.01.2014 passed in Civil Writ Jurisdiction Case No.7293 of 2012, these two appeals have been filed under Clause 10 of the Letters Patent.

The matter pertains to revision of pay scale on the post of Touring Veterinary Officers working in the Animal Husbandry and Fisheries Department and the recommendation made by the Fitment Appellate Committee constituted by the State Government consisting of His Lordship Justice Aftab Alam as he then was. On a bare reading of the order passed by the learned Writ Court, it is seen that the Pay Revision Committee recommended a pay scale to the post in question in the scale of Rs.6500-10500. On objections being raised by persons like the respondents, who were original petitioners, the matter was referred to the Fitment Appellate Committee constituted by the State Government headed by Justice Aftab Alam and it is alleged that the said Committee recommended a pay scale of Rs.12000-16500 for the post in question. The learned Writ Court in its small order consisting of two pages took note of these facts and recorded a finding that once the Government constituted a statutory Appellate Committee and the said Committee made recommendation, the Government is required to implement the recommendation and by holding that the Appellate Committee has recommended the pay scale of Rs.12000-16500, the same be



implemented to the respondents-petitioners with effect from 01.01.1996, the writ petition was allowed and disposed of.

Inter alia contending that no such recommendation was made by the Appellate Committee and, in fact, in the recommendation made with regard to Animal Husbandry and Fisheries Department for the pay scale in the basic grade of Rs.6500-10500, no change was recommended. By referring to the Fitment Appellate Committee's report in para 37.3, the State Government points out that the learned Writ Court has committed an error. It is stated by referring to the entire Fitment Appellate Committee report, which is produced before us and page 419 thereof pertaining to Animal Husbandry and Fisheries Department that in reference to paragraph 37.3 of the Fitment Appellate Committee's report there is no such recommendation for granting pay scale as claimed by the petitioners. Chapter 37 of the report of the Fitment Appellate Committee deals with the Animal Husbandry and Fisheries and in para 37.3, reference has been made to various posts and with respect to the basic grade pay scale fixed at Rs.6500-10500, there seems that there is no change called for.

However, the petitioners-respondents herein rely upon certain portion of the report of the Fitment Committee and para 42.9 thereof pertaining to accelerated progression scheme (ACP) and the implication of the recommendation made in paras 42.9 to say that if the recommendations made with regard to implementation of the ACP



Scheme as contained in para 42.9 is given effect to, the petitioners will be entitled to the scale as claimed by them.

On an analysis of the aforesaid aspects of the matter and after going through the recommendations contained in para 42.9 pertaining to grant of ACP Scale, we find that it refers to interpretation of the recommendation made by the Fitment Committee. There is no direct recommendation by the Fitment Committee for granting higher pay scale to the petitioners herein, but the petitioners want this Court to take note of the recommendation made in para 42.9 in a particular manner and then hold that the petitioners are entitled to larger pay scale. The order passed by the learned Writ Court does not reflect this factual aspect of the matter and as is canvassed before us today. On the contrary, on a reading of the order passed by the learned Writ Court goes to show that the Appellate Committee had made a particular recommendation and as the State Government has not accepted this, the impugned order was passed. On the contrary, we find that with regard to the department in question, namely Animal Husbandry & Fisheries Department, no recommendations have been made with regard to revision of pay scale as demanded and scale recommended in Chapter 37 is for no change, whereas reliance placed by the petitioners for claiming the demand is based on certain recommendations made in para 42.9 pertaining to grant of ACP grade. That being so, we are of the considered view that the learned Writ Court has not gone into various aspects of the matter,



particularly the recommendations made by the Appellate Committee as are available on record in its right prospective. Therefore, it is a fit case where the appeals should be allowed, the orders passed by the learned Writ Court quashed and the matters remanded back to the learned Writ Court for reconsideration, after taking note of various aspects as are indicated hereinabove, the learned Writ Court is requested to deal with the matter and decide the question afresh in accordance with law.

With the aforesaid, both the appeals stand allowed and disposed of. Civil Writ Jurisdiction Case No.14475 of 2005 and Civil Writ Jurisdiction Case No.7293 of 2012 are restored to their original files. They are directed to be placed for consideration before an appropriate Court.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2017
Transmission Date	

