

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.30 of 2015

IN

Civil Writ Jurisdiction Case No. 1218 of 2014

- =====
1. Arun Kumar son of Sri Tuntun Rai, Resident of Village + Post Office - Reva Bashantpur, Police Station - Saraiya Kothi, District - Muzaffarpur
 2. Suresh Kumar Singh, Son of Sri Binod Singh, Resident of Village - Basokund, Post Office - Vaishali, Police Station - Saraiya Kothi, District - Muzaffarpur
 3. Pramod Kumar Singh, Son of Sri Rajendra Singh, Resident of Village - Basudeva, Police Station - Saraiya Kothi, District - Muzaffarpur
 4. Dinesh Kumar Singh, Son of Late Bhuneshwar Prasad Singh, Resident of Village - Kolhua, Post Office - Bakhara, Police Station - Saraiya Kothi, District - Muzaffarpur
 5. Suresh Prasad Singh, Son of Late Raghunath Prasad Singh, Resident of Village - Gopidhanapat, Post Office - Gidha, Police Station - Saraiya Kothi, District - Muzaffarpur
 6. Ramesh Sharma, Son of Sri Saryug Sharma, Resident of Village + Post Office - Muza Malikana, Police Station - Saraiya Kothi, District - Muzaffarpur
 7. Suresh Dubey, Son of Late Sri Asharfi Dubey, Resident of Village - Bahilwara , Pandey Tola, Police Station - Saraiya Kothi, District - Muzaffarpur
 8. Sanjay Bhagat, Son of Sri Sanswini Bhagat, Resident of Village - Bahilwara Rupnath, Mali Tola, Post Office - Bahilwara Rupnath, Police Station - Saraiya Kothi, District - Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary-cum -Commissioner, Department of Health and Family Welfare, Government of Bihar, Patna
2. The Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur, District - Muzaffarpur
3. Civil Surgeon-cum-Member Secretary, District Health Committee, Muzaffarpur/District Programme Manager, District Health Committee, Muzaffarpur
4. The Director-in-Chief, Health Services, Bihar, Patna
5. The Deputy Director, Health Services, Bihar, Patna
6. The Regional Deputy Director, Health Services, Tirhut Division, Muzaffarpur
7. The Collector, Muzaffarpur
8. The Deputy Collector (Establishment), Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jagannath Singh, Adv

For the State : Mr. Prabhat Kumar, AC to G.A-XI

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date: 24-07-2017

Seeking exception to an order dated 16.10.2014 passed by the Writ Court in C.W.J.C. No. 1218 of 2014, this appeal has been filed under Clause-10 of the Letter Patent.

Petitioners filed the writ petition and claim dual reliefs. The first relief claimed by them was that wages should be paid to them in accordance with the mandate of a Bench of this Court rendered on 24.09.2004 in C.W.J.C. No. 4878 of 2000. It is the case of the persons like the petitioners in the said writ petition Sri. Ashok Kumar, petitioners are also working continuously since last so many years and are only paid remuneration of Rs. 50/- per month and seeking payment of remuneration as directed on 24.09.2004, the writ petition was filed. That apart, it was stated that as petitioners are continuously working for a long period of time, they are entitled to be regularized in service in accordance with the policy of the State Government.

Even though, in the writ petition no counter affidavit was filed by the State Government, but taking note of the facts learned Writ Court directed that as petitioners are seeking minimum wages as directed in C.W.J.C. No. 4878 of 2000, they should take recourse to the remedy by approaching the minimum wages authority under the Minimum Wages Act and as there is



statutory remedy available, the Writ Court refused to interfere into the matter.

In our considered view, the learned Writ Court, instead of relegating the petitioners to take recourse to the remedy available under the Minimum Wages Act should have directed the State Government to examine the case of the petitioners in the light of the principle laid down in the case of Ashok Kumar (Supra) as contained in Annexure-1 dated 24.09.2004 and grant them identical benefits as has been granted in the said case, in case, it is found that petitioners are also identically situated, as the SLP filed by the State Government has been dismissed as is evident from the order passed by the Supreme Court on 02.02.2009 in Annexure-1/1 page 58.

That being so, we direct the respondents to examine the case of the petitioners in the light of the observations made by the Writ Court in the case of Ashok Kumar (supra) and if it is found that petitioners are also working on remuneration which is less than the remuneration paid under the Minimum Wages Act, payable to them under the Minimum Wages Act, the same be granted. As far as regularization of the services of the petitioners are concerned, in view of the law laid down in the case of *Secretary, State of Karnataka and others Versus Umadevi & others reported in (2006) 4 SCC 1*, no direction for regularization can be ordered. The



petitioners will have to bring the case in the light of the law laid down by the Constitution Bench in the case of Umadevi(supra) and thereafter demand for regularization of services, in accordance with law.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01/08/2017
Transmission Date	NA

