

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.940 of 2014  
IN  
Civil Writ Jurisdiction Case No. 12919 of 2013**

- =====
1. Niranjana Kumar S/o Late Rambali Singh, Resident of Village Madhopur, P.S. Janipur, District Patna.
  2. Satya Narain Prasad S/o Sri Brijnandan Prasad, Resident of Village Bheekhachak, P.S. Gardnibagh, District Patna-2.
  3. Anup Narain Prasad S/o Late Ganauri Prasad, Resident of Village Sita Vigha, P.S. Parbalpur, District Nalanda.
  4. Sunil Kumar S/o Late Jugeshwar Paswan, Resident of Village Hasanpura, P.O. Beur (Anishabad), District Patna.
  5. Birendra Kumar Choudhary S/o Late Ganesh Chaudhary, Resident of Village Ramdutt Patty, P.S. Supaul, District Supaul.
  6. Birchandra Singh S/o Sri Kamleshwar Singh, Resident of Village Jalalpur, P.O. + P.S. Lalganj, District Vaishali.
  7. Renu Kumari w/o Sri Upendra Kumar Chaudhary, Resident of Village Ramdutt Patty, P.S. Supaul, District Supaul.

.... .... Appellant/s

Versus

1. The State of Bihar through the Agriculture Production Commissioner, Vikas Bhawan, Patna.
2. The Agriculture Production Commissioner, Vikas Bhawan, Patna.
3. The Secretary Finance Department, Government of Bihar, Secretariat Building, Patna.
4. The Director Agriculture, Vikas Bhawan, Bihar, Patna
5. The Deputy Director (Administration), Vikas Bhawan, Patna.
6. The Deputy Director (Seed Analysis), Bihar, Patna, Mithapur Agriculture Farm, Patna.
7. The Assistant Seed Testing Officer, Mushari, Muzaffarpur, Bihar.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Shri Prakash Tiwari, Advocate  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 27-03-2017**

Having heard learned counsel for the parties, we find that  
the learned Writ Court has dismissed the writ petition only on account



of the fact that the petitioners' substantive appointment was against the post of Lab Attendant and, therefore, they cannot claim the salary of a higher post i.e. Lab Assistant. It was held by the learned Writ Court that, at best, they may claim 20 per cent as Lab Attendant for discharging higher responsibility in accordance to Rule 103 of the Bihar Service Code. However, while doing so, the learned Writ Court lost sight of the matter that particularly after appointment of the petitioners substantively as a Lab Attendant, there are orders directing them to discharge duties of Lab Assistant in the then existing pay scale of Rs.535-765 (Annexure-10 series) filed in the record of original writ petition, so also with regard to various other orders passed deputing the petitioners to discharge the duties of Lab Assistant from time to time, even though there is serious dispute between the petitioners and the respondents in the matter of discharge of duties continuously by the petitioners on the post of Lab Assistant.

According to the petitioners, they were continuously working as Lab Assistant for a period of 26 years and were not paid salary of higher post, whereas, according to the respondents, it was only as and when required then they were to discharge duties of Lab Assistant. However, the learned Writ Court has not appreciated this aspect properly. That apart, the questions as to whether on the principle of equal work, equal wages the petitioners are entitled to



salary of Lab Assistant in view of the higher responsibility discharged by them continuously as pleaded was also not taken note of by the learned Writ Court. Therefore, it is a fit case where the appeal should be allowed, the order passed by the learned Writ Court set aside and writ petition directed to be heard afresh after taking note of various issues discussed above.

Accordingly, this appeal is allowed, the order dated 09.04.2014 passed by the learned Writ Court in C.W.J.C. No.12919 of 2013 stands set aside.

The writ petition i.e. C.W.J.C. No.12919 of 2013 is restored to its original file and is directed to be listed for hearing before the appropriate Bench as per roster.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

Narendra/-

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| AFR/NAFR          | N.A.F.R.   |
| CAV DATE          | N.A.       |
| Uploading Date    | 04.04.2017 |
| Transmission Date |            |

