

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5068 of 2017

1. Amar Nath Singh, Son of late Ram Prasad Singh, resident of Mohallah- J.N. Road, P.S. Kadam Kuan, District- Patna-3.
2. Upendra Kumar, Son of Late Deep Narayan Singh, resident of New Tarachak, P.S. Danapur Cantt., District- Patna.
3. Om Prakash Pathak, Son of late Krishna Mohan Pathak, resident of Village- Bahelia Bigha P.O. & P.S.- Tekari, District- Gaya.
4. Ramdhan Paswan, Son of Late Mahabir Paswan, Resident of Village- Haripur, P.O.- Madho Nagar, P.S. Dhamdaha, District- Purnia.
5. Manoj Kumar Jha, Son of Er. Birendra Jha, resident of Mohallah- Koshi Chowk Saharsa, P.S.- Saharsa, District- Saharsa.
6. Bimla Kumari, W/o Anil Kumar, resident of Mohallah- Pachmahla P.O. & P.S.- Jehanabad, District- Jehanabad.
7. Vijay Kumar Singh, Son of Sri Bhulan Singh, Resident of Village- Dharampur, P.O.- Bichhiawon, P.S.- Sandesh, District- Bhojpur at Ara.
8. Sunil Kumar Singh, Son of Late Shiv Pujan Singh, resident of Anand Bihar Colony Phase-1, East Gola Road, P.S.- Danapur, District- Patna.
9. Kamod Jha, Son of Late Vidyanand Jha, resident of Village Runway P.O.- Kewti Runway, P.S.- Kewti, District- Darbhanga.
10. Pushpjeet Singh, Son of Rama Shankar Singh, resident of Old Police Station, P.S.- Dumraon, District- Buxar.
11. Sardar Hardyal Singh, Son of Late Sardar Guru Narain Singh, resident of Mohallah- Jani Bazar, P.S.- Sasaram, District- Rohtas.
12. Binod Kumar, Son of Late Shivanandan Prasad, resident of Village- Govindpur, P.S.- Govindpur, District- Nawada.
13. Sachidanand Srivastava, Son of Late Jagarnath Prasad Srivastava, resident of Village & P.O.- Bindusar, P.S.- Siwan, District- Siwan.
14. Amrendra Kumar, Son of late Dwarika Prasad, resident of Village- Borha, P.S.- Karjain, District- Supaul.
15. Prafool Chandra Sinha, Son of Sri Degan Prasad, resident of DVC Colony E/2/3 Jakkampur, P.S.- Gardanibag, District- Patna.
16. Basudeo Baitha Nirala, Son of Bharat Baitha, resident of Village- Bhawanipur (Kathai), P.O.- Thikhan Bhawanipur, P.S.- Sangrampur, District- East Champaran.
17. Vijay Mal Kumar, Son of Sri Osear Sah, resident of Village- Karnpura Tole Basopali, P.O.- Basopali (Siwan), P.S.- Muffasil, District- Siwan.
18. Sunil Kumar, Son of Ambika Prasad, resident of Mohallah- Chutkiya Bazar, P.O. Patna City, District- Patna.
19. Chandra Shekhar Kumar Singh, Son of Ram Kripal Singh, resident of Chanpur Bela, P.S. Jakkampur, District- Patna.
20. Vinod Kumar Singh, Son of Late Sutikshan Singh, Resident of Village- Jaitpur, P.S.- Haspura, District- Aurangabad.
21. Hirday Narayan Jha, Son of late Banmali Jha, resident of Village- Tatuvar, P.S.- Manigachhi, District- Darbhanga.
22. Kishor Kumar, Son of Late Anandi Prasad Mandal, resident of Village- Atalkha, P.S.- Basnahi, District- Saharsa.
23. Ajay Kumar, Son of Late Surendra Narayan resident of Mohallah- Laxmi Sagar Colony, P.O.- Laxmi Nagar, P.S. L.N. Mishra University, District- Darbhanga.
24. Surendra Kumar, Son of Late Sidheshwar Mahto, resident of House No.160



- Mari Apartment Manas Marg, Nehru Nagar, P.S. Patliputra, District- Patna.
25. Awadhesh Kumar, Son of late Rameshwar Prasad, resident of Mohallah- New Purandarpur, P.O.- G.P.O., P.S.- Gardanibag, District- Patna.
 26. Rakesh Kumar, Son of Shivilal Sah, resident of Road No.1, Sandalpur, P.O.- Mahendru, P.S.- Bahadurpur, District- Patna- 6.
 27. Bhuneshwar Prasad, Son of Late Lalan Prasad, resident of Village & P.O.- Bara Nathu, P.S. Rampur Chauram, District- Arwal.
 28. Sandeep Kumar, Son of Sri Chandradeo Prasad, resident of Flat No.215/E SWAWLAMBI REGENCY, Daudbigha, P.O.- Lohiya Nagar, P.S.- Agamkuan, District- Patna.
 29. Shyam Mohan Singh, Son of Late Mahabir Prasad Singh, Resident of Village- Gasganj, P.S.- Ara Town, District- Bhojpur at Ara.
 30. Nand Kishore Jaishwal, Son of Late Ganesh Lal Chaudhary, resident of Ravi Residency, Nehru Nagar, Road, No. -2, P.S.- Patliputra, District- Patna.
 31. Mandan Mishra, Son of Late Shobha Kant Mishra, resident of village- Karraur- P.S.- Ghanshyampur, District- Darbhanga.
 32. Anil Kumar Singh, Son of Ram Naresh Singh, resident of Mohallah- Chhotki Delha, P.S.- Delha, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
6. The Deputy Secretary, Rural Development Department, Govt. of Bihar, Patna.
7. The Under Secretary, Rural Development Department, Govt. of Bihar, Patna.
8. The Principal Secretary, Co-operative Department, Govt. of Bihar, New Secretariat, Patna.
9. The Registrar, Co-operative Societies, Bihar, Patna, New Secretariat, Patna.
10. The Director, the Directorate of the Economics and Statistics, Planning and Development Department, Govt. of Bihar, Old Secretariat, Patna.
11. The Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Singh, Adv.
Mr. Rajesh Singh, Adv.

For the Respondent/s : Mr. Sumant Kumar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-08-2017

The petitioners have prayed for appropriate direction to the respondents to make payment of salary of the petitioners for the period 8.9.2014 to 15.11.2015.



This case has its own peculiarities. While the petitioner nos.1 to 18 and 32 are the supervisors in the Cooperative Department, the petitioner nos.19 to 30 are supervisors in the Directorate of Economic and Statistics, Planning and Development Department and petitioner no.31 is the supervisor in the Panchayati Raj Department and all of them are holding substantive post under the State Government. An advertisement was issued by the Rural Development Department inviting applications from the intending candidates for filling up the post of Block Development Officers until regular appointments are made. A copy of the advertisement is present at Annexure-2. The petitioners applied and were selected for being appointed as an interim measure on temporary basis which order was issued by the Rural Development Department on 3.4.2010 present at Annexure P/3. The deputation was for a period of 3 years or until regular appointments are made whichever is earlier as manifest from condition no.2 of the appointment letter at Annexure P/3. The period was extended by resolution dated 14.3.2013 for a further period of three years or until the regular appointments are made as manifest from Annexure P/4. Vide notification dated 8.9.2014 of the Rural Development Department present at Annexure P/5 the deputation of these petitioners was cancelled and they were directed to hand over the charge to the regular appointees and report to the Rural Development



Department. The petitioners reported to the Rural Development Department and who in turn vide letter dated 24.10.2014 at Annexure P/6 and letter dated 3.11.2014 at Annexure P/6A handed over the services of these petitioners to the Principal Secretary, General Administration Department for their posting as Executive Magistrates. The Deputy Secretary, General Administration Department vide letter dated 18.11.2014 present at Annexure P/7 and letter dated 26.11.2014 present at Annexure P/7A returned the services of the petitioners to the Principal Secretary, Rural Development Department. While the petitioners were facing harassment at the ball game played by the department(s) of the State, a request was made by the Director, Food and Consumer Protection Department requisitioning the services of these petitioners on deputation which is apparent from the letter dated 20.11.2014 present at Annexure P/8. Vide letter dated 25.11.2014 and letter dated 9.12.2014 the services of these petitioners were handed over by the Rural Development Department to the Managing Director, Food and Civil Supplies Corporation Limited, copies of which are placed at Annexures P/9 and P/9A respectively. The petitioners feeling aggrieved by the exercise moved this Court in CWJC No.3785 of 2015 which was heard along with CWJC No.22490 of 2014 and vide order present at Annexure P/10 the writ petitions were disposed of with a direction to the Chief Secretary to



convene a meeting of the Principal Secretaries of the department to take a policy decision to find out a solution to the inter-departmental dispute. The matter was considered by the Chief Secretary whose order is present at Annexure P/11 and vide order dated 22.9.2015 these petitioners were sent to the Bihar Food and Civil Supplies Corporation Limited after obtaining consent of their parent departments which having been taken at Annexure P/12 that the petitioners reported in the Corporation on 15.11.2015 and after serving the Corporation that on regular appointments being made on the post of Assistant Godown Manager they have now returned to their parent cadre.

In this whole journey the petitioners have lost out on their salary for the period 8.9.2014 to 15.11.2015 when the Rural Development Department while cancelling the deputation of the petitioners asked them to report to the Headquarter vide Annexure P/5 and until the issues to be resolved under the orders of the Chief Secretary on 22.9.2015 vide Annexure P/11 sending these petitioners on deputation to the Bihar Food and Civil Supplies Corporation where the petitioners reported on 15.11.2015. As none of the departments have owned the obligation of payment of salary to the petitioners for the period 8.9.2014 to 15.11.2015 that they are before this Court.

In my opinion in the peculiar situation existing where the



petitioners are being denied their salary for no fault of their own, the appropriate authority to take a decision on this issue would be the Chief Secretary, Government of Bihar as not only these petitioners are entitled to the salary for the period in question but their services during the period in question also needs a recognition and for the purpose I deem it proper to direct the Chief Secretary, Government of Bihar, Patna to consider the grievance of the petitioners and dispose of the same in accordance with law within a maximum period of three months from the date of receipt/production of a copy of this judgment.

It goes without saying that the period stipulated above would also be a guidance regarding the period for ensuring payment of the salary to the petitioners.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29.08.2017
Transmission Date	NA

