

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1944 of 2016
In
Civil Writ Jurisdiction Case No. 9553 of 2016

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1. Sanjeev Kumar, son of Late Jaglal Prasad, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Saran Canal Division, Chapra, District- Saran at Chapra.
 2. Sanjay Kumar Tiwary, son of Late Surendra Nath Tiwary, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Ganga Sone Flood Protection Division, Digha, Patna, District- Patna.
 3. Vinay Kumar Singh, son of Late Badri Narayan Singh, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Triveni Canal Division, Raxaul, District- East Champaran.
 4. Sunil Kumar Verma, son of Late Dineshwar Prasad Verma, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Irrigation Division, Katihar, District- Katihar.
 5. Satyendra Kumar, son of Late Krishnadeo Sharma, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Canal and Canal Design Division No. 4, Anishabad, Patna, District- Patna.
 6. Ram Awatar Yadav, son of Late Uttam Lal Yadav, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Western Embankment Division, Nirmali, District- Supaul.
 7. Anil Kumar Kamati, son of Late Ram Gulam Kamati, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Western Koshi Canal Division, Jhanjharpur, District- Madhubani.
 8. Arun Kumar Singh, son of Late Mangal Prasad Singh, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Planning and Design Division No. 1, Muzaffarpur, District- Muzaffarpur.
 9. Manish Kumar, son of Late Babu Saheb Singh, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Water Drainage Investigation Division, Muzaffarpur.
 10. Lal Babu Sah, son of Late Ramji Sah, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Planning and Design Division No. 1, Muzaffarpur, District- Muzaffarpur.
 11. Prince Alam, son of Late Ahmed Hussain, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Planning and Design Division No. 1, Muzaffarpur.
 12. Shyam Kishore Singh, son of Late Ajay Kumar Singh, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Irrigation Division, Nawanagar, District- Buxar.
 13. Shiv Kumar Mishra, son of Late Laxmi Kant Mishra, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Flood and Water Drainage Division, Lalganj, District- Vaishali.
 14. Rakesh Kumar Satyam, son of Late Kamlapati Singh, Presently working



as Store Keeper in the office of Executive Engineer, Water Resources Department, Flood Control Division No. 1, Madhubani Camp- Pandrauna, District- Madhubani.

15. Vijay Kumar Singh, son of Late Jaleshwar Prasad, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Punpun Flood Protection Division, Patna City, Karbigahiya, Patna, District- Patna.

16. Shiv Shambhu Paswan, son of Late Banke Lal Paswan, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Western Koshi Canal Division, Benipatti, District- Madhubani.

17. Sushma Kumari, wife of Late Satyendra Kumar, Presently working as Store Keeper in the office of Executive Engineer, Water Resources Department, Flood Control Design Division No. 4, Patna, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna
3. The Additional Finance Commissioner (Resources), Finance Department, Government of Bihar, Patna
4. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Engineer-in-Chief-cum- Additional Secretary-cum- Special Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Executive Engineer, Water Resources Department, Saran Canal Division, Chapra, District- Saran at Chapra.
7. The Executive Engineer, Water Resources Department, Ganga Sone Flood Protection Division, Digha, Patna, District- Patna.
8. The Executive Engineer, Water Resources Department, Triveni Canal Division, Raxaul, District- East Champaran.
9. The Executive Engineer, Water Resources Department, Irrigation Division, Katihar, District- Katihar.
10. The Executive Engineer, Water Resources Department, Canal and Canal Design Division No. 4, Anishabad, Patna, District- Patna.
11. The Executive Engineer, Water Resources Department, Western Embankment Division, Nirmali, District- Supaul.
12. The Executive Engineer, Water Resources Department, Western Koshi Canal Division, Jhanjharpur, Division- Madhubani.
13. The Executive Engineer, Water Resources Department, Planning and Design Division No. 1, Muzaffarpur, District- Muzaffarpur.
14. The Executive Engineer, Water Resources Department, Water Drainage Investigation Division, Muzaffarpur.
15. Executive Engineer, Water Resources Department, Irrigation Division, Nawanagar, District- Buxar.
16. The Executive Engineer, Water Resources Department, Flood and Water Drainage Division, Lalganj, District- Vaishali
17. The Executive Engineer, Water Resources Department, Flood Control



Division No. 1, Madhubani Camp- Pandrauna, District- Madhubani.

18. The Executive Engineer, Water Resources Department, Punpun Flood Protection Division, Patna City, Karbigahiya, Patna, District- Patna.

19. The Executive Engineer, Water Resources Department, Western Koshi Canal Division, Benipatti, District- Madhubani.

20. The Executive Engineer, Water Resources Department, Flood Control Design Division No. 4, Patna, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mr. S.B.K. Manglam, Advocate
Mr. Ravi Ranjan, Advocate
Ms. Anita Kumari, Advocate

For the Respondent/s : Mr. Anjani Kumar- AAG 4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 06-11-2017 Seeking exception to an order passed by the learned

Writ Court on 14.09.2016 dismissing the writ petition only on

account of the fact that the petitioners/appellants have

approached the Court after 14 years, this appeal has been filed

under Clause 10 of the Letters Patent.

2. A notification was issued by the State Government

vide Annexure 6 to the writ petition in the matter of fixation of

compensation of Store Keepers and Accounts Clerks. The said

notification was challenged before this Court in C.W.J.C.

No.12799 of 2002 and thereafter L.P.A. No.1979 of 2010 and

the decisions contained in the Circular were impugned, the



petition was allowed and consequently it was directed that the petitioner therein Naseer Ahmad Ansari, who was a Store Keeper, getting pay in the scale of Rs.730-1080/- with effect from 01.04.1981 and Rs.1400-2300/- with effect from 01.01.1986 and Rs.4500-7000/- with effect from 01.01.1996. The notification in question was set aside and it was held by the Division Bench that the Store Keepers are also entitled to the pay scale of Rs.730-1080/- with effect from 01.04.1981 and the subsequent revision brought into force from time to time with regard to pay scale in question.

3. Seeking identical benefit as was granted to the Store Keeper by the Division Bench, the writ petition in question was filed and as indicated hereinabove the writ petition was dismissed only on account of the fact that the benefit was granted to the Store Keeper more than 14 years back and now after 14 years the petitioners/appellants cannot claim the said benefit, and, position, which was settled 14 years back, cannot be disturbed now. However, the learned counsel for the petitioners/appellants invites our attention to a judgment rendered by Hon'ble Supreme Court in the case of the **State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and**



others, (2015) 1 Supreme Court Cases 347 and argues that once a Court of competent jurisdiction has granted benefit to certain set of employees and relief is granted to them by the Court then all other identically situated persons need to be treated alike by extending the benefit. Not doing so would amount discrimination, which is violative of Article 14 of the Constitution. The Hon'ble Supreme Court has held that only on account of delay and laches in approaching the Court, the benefit granted to identically situated persons cannot be denied.

4. Having heard learned counsel for the parties, we find that the petitioners/appellants are claiming the benefit, which was granted to certain Store Keepers by virtue of orders passed by this Court as indicated hereinabove and the same is denied to them only because they have approached the Court after 14 years. However, in the case of **Arvind Kumar Srivastava (supra)**, it has been held by Hon'ble Supreme Court that the normal rule is that when an employee is given relief by a Court, all other identically situated persons are required to be treated alike by extending that benefit. Not doing so would amount discrimination and would be violative of Article 14 of the Constitution. It has been held by Hon'ble Supreme Court



that this principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by the Supreme Court from time to time postulates that all similarly situated persons should be treated similarly and, therefore, deviation from normal rule, which amounts to discrimination, should be avoided. Apart from the aforesaid judgment, we find that in the litigation policy of the State of Bihar also similar provisions are contained and all similarly situated persons are to be granted benefit and it is the policy of the State of Bihar in the aforesaid case that every judgment rendered should be applied similarly to all persons situated alike. Taking note of all these circumstances, merely because the petitioners did not approach the Court in time, we see no reason to deny the benefit to the petitioners/appellants. However, the delay in approaching the Court may be a ground for denying the arrears of salary, the employee in such a case would be entitled to perma fixation on the pay scale.

5. Even though, in the aforesaid judgment certain principles are laid down with regard to acquiescence, delay and laches in approaching the Court, we find that in this case that the judgment was rendered by the Single Judge rejecting the claim



of Naseer Ahmad Ansari on 30.09.2010 in C.W.J.C. No.12799 of 2002, thereafter, Naseer Ahmad Ansari appeared in L.P.A. No.1979 of 2010 and this appeal was decided on 05.07.2016 in his favour and direction issued for granting benefit. Even before that on 16.06.2016 the petitioners/appellants had approached this Court claiming similar benefit, and there it is seen that even before the L.P.A. filed by Naseer Ahmad Ansari was decided on 05.07.2016, petitioners had approached this Court on 16.06.2016, claiming the benefit and as benefit was granted to Naseer Ahmad Ansari only on 05.07.2016, the plea of delay is not tenable. Naseer Ahmad Ansari received the benefit after the L.P.A. was allowed on 05.07.2016 and the S.L.P. filed by the State Government being S.L.P. No.22276 of 2016 was rejected by the Hon'ble Supreme Court on 02.12.2016. That being the factual position, we see no reason to reject the claim of the petitioners/appellants on the ground of delay. The petitioners/appellants are also entitled to similar benefit as has been granted to Naseer Ahmad Ansari after dismissal of the S.L.P. filed by the State Government on 02.12.2016. In case, the respondents see that any of the petitioners/appellants do not claim the benefit as granted to Naseer Ahmad Ansari, it shall be



incumbent upon the respondents to notice the petitioners/appellants concerned herein and thereafter pass a speaking order.

6. With the aforesaid, this appeal stands allowed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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